

**CHAPTER 12.5 of Education Code
with changes through January 1, 2007**

Article 1. General Provisions

17070.10. This chapter shall be known, and may be cited, as the Leroy F. Greene School Facilities Act of 1998.

17070.15. The following terms, wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Apportionment" means a reservation of funds for the purpose of eligible new construction, modernization, or hardship approved by the board for an applicant school district.

(b) "Attendance area" means the geographical area serving an existing high school and those junior high schools and elementary schools included therein.

(c) "Board" means the State Allocation Board as established by Section 15490 of the Government Code.

(d) "Committee" means the State School Building Finance Committee established pursuant to Section 15909.

(e) "County fund" means a county school facilities fund established pursuant to Section 17070.43.

(f) "Department" means the Department of General Services.

(g) "Fund" means the applicable 1998 State School Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State School Facilities Fund, established pursuant to Section 17070.40.

(h) "Good repair" has the same meaning as specified in subdivision (d) of Section 17002.

(i) "Modernization" means any modification of a permanent structure that is at least 25 years old, or in the case of a portable classroom, that is at least 20 years old, that will enhance the ability of the structure to achieve educational purposes.

(j) "Portable classroom" means a classroom building of one or more stories that is designed and constructed to be relocatable and transportable over public streets, and with respect to a single story portable classroom, is designed and constructed for relocation without the separation of the roof or floor from the building and when measured at the most exterior walls, has a floor area not in excess of 2,000 square feet.

(k) "Property" includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of this chapter.

(l) "School building capacity" means the capacity of a school building to house pupils.

(m) "School district" means a school district or a county office of education. For purposes of determining eligibility under this chapter, "school district" may also mean a high school attendance area.

17070.20. The Director of General Services shall administer this

chapter and shall provide assistance to the board as it requires.

17070.25. The department shall first publish applications for funding under this chapter by November 4, 1998, and shall be prepared to receive and expeditiously act upon applications on and after that date.

17070.30. The State Allocation Board is continued in existence for the purpose of this chapter. The members of the board and the Members of the Legislature meeting with the board shall have no compensation for their services under this chapter, but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties pursuant to this chapter, to be paid as an administrative expense.

17070.33. (a) The board shall adopt guidelines for use by districts by June 30, 1999, to achieve measurable reductions in the costs of school facilities construction.

(b) The guidelines shall include, but need not be limited to, all of the following:

(1) Mechanisms designed to reduce the costs of professional fees.

(2) Mechanisms designed to reduce the costs of site preparation.

(3) Recommendations for the use of alternate cost-saving construction materials and methods.

(4) Recommendations regarding the joint use of core facilities.

(5) Mechanisms designed to reduce costs by incorporating efficiencies in schoolsite design.

(6) Recommendations regarding the use of cost-effective, efficient reusable facility plans.

(c) If a school district's matching funds include fees charged pursuant to Section 17620 or pursuant to Section 65995.5 or 65995.7 of the Government Code, or if a district receives funds pursuant to this chapter, the district shall consider the guidelines developed pursuant to this section as fully as is practicable.

(d) When the board adopts the guidelines, it shall not include any recommendation that would have a significant detrimental effect on educational programs.

17070.35. (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following:

(1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter. However, the board shall have no authority to set the level of the fees of any architect, structural engineer, or other design professional on any project. The initial regulations adopted pursuant to this chapter shall be adopted as emergency regulations,

and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this chapter shall be adopted by November 4, 1998. If the initial regulations are not adopted by that date, the board shall report to the Legislature by that date, explaining the reasons for the delay.

(2) Establish and publish any procedures and policies in connection with the administration of this chapter as it deems necessary.

(3) Determine the eligibility of school districts to receive apportionments under this chapter.

(4) Apportion funds to eligible school districts under this chapter.

(b) The board shall review and amend its regulations as necessary to adjust its administration of this chapter to conform with the act that amended this section to add this subdivision. Regulations adopted pursuant to this subdivision shall be adopted by November 5, 2002, and shall be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of any emergency regulation pursuant to this subdivision filed with the Office of Administrative Law shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulation adopted pursuant to this section shall remain in effect for no more than 365 days unless the board has complied with Sections 11346.2 to 11348, inclusive, of the Government Code.

17070.40. (a) (1) A fund is hereby established in the State Treasury to be known as the 1998 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to this chapter.

(2) The board may apportion funds to school districts for the purposes of this chapter from funds transferred to the 1998 State School Facilities Fund from any source.

(3) The board may make apportionments in amounts not exceeding those funds on deposit in the 1998 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

(4) The board may make disbursements pursuant to any apportionment made from any funds in the 1998 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 1998 State School Facilities Fund sufficient to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

(b) (1) A fund is hereby established in the State Treasury to be known as the 2002 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated without regard to fiscal years

for expenditure pursuant to this chapter.

(2) The board may apportion funds to school districts for the purposes of this chapter from funds transferred to the 2002 State School Facilities Fund from any source.

(3) The board may make apportionments in amounts not exceeding those funds on deposit in the 2002 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

(4) The board may make disbursements pursuant to any apportionment made from any funds in the 2002 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 2002 State School Facilities Fund sufficient to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

(c) (1) A fund is hereby established in the State Treasury to be known as the 2004 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to this chapter.

(2) The board may apportion funds to school districts for the purposes of this chapter from funds transferred to the 2004 State School Facilities Fund from any source.

(3) The board may make apportionments in amounts not exceeding those funds on deposit in the 2004 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

(4) The board may make disbursements pursuant to any apportionment made from any funds in the 2004 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 2004 State School Facilities Fund sufficient to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

(d) (1) A fund is hereby established in the State Treasury, to be known as the 2006 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to this chapter.

(2) The board may apportion funds to school districts for the purposes of this chapter from funds transferred to the 2006 State School Facilities Fund from any source.

(3) The board may make apportionments in amounts not exceeding those funds on deposit in the 2006 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

(4) The board may make disbursements pursuant to any apportionment made from any funds in the 2006 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 2006 State School Facilities Fund sufficient to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

17070.43. (a) A county school facilities fund is hereby established in the county treasury within each county for each school district in the county.

(b) The board may from time to time authorize the Controller to transfer any funds that the board may deem necessary from the 1998 State School Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State School Facilities Fund, as the case may be, to the corresponding county fund in the county treasury. Interest on all funds deposited in the county fund shall be retained in that fund.

(c) Funds may be expended from the county fund by the recipient school district for qualifying school facilities expenditures set forth in Sections 17072.35 and 17074.25.

17070.45. This chapter shall not be construed to change the powers and duties of the State Department of Education or the Department of General Services with respect to schoolsites and the construction of school buildings as contained in Chapter 1 (commencing with Section 17211) and Chapter 3 (commencing with Section 17251) of Part 10.5.

17070.46. (a) For projects funded under this chapter, the following state agencies are deemed not to be the lead agency for the purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):

- (1) The board.
- (2) The Department of General Services.
- (3) The Office of the State Architect.
- (4) The Office of Public School Construction.
- (5) The State Department of Education, except as appropriate for projects relating to the California School for the Deaf and the California School for the Blind.

(b) This section is declaratory of existing law.

17070.50. The board shall not apportion funds to any school district, unless the applicant school district has certified to the board that the services of any architect, structural engineer, or other design professional for any work under the project have been obtained pursuant to a competitive process that is consistent with the requirements of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code and has obtained the written approval of the State Department of Education that the site selection, and the building plans and specifications, comply with the standards adopted by the department pursuant to subdivisions (b) and (c), respectively, of Section 17251.

17070.51. (a) If any certified eligibility or funding application related information is found to have been falsely certified by school districts, architects or design professionals, hereinafter referred

to as a material inaccuracy, the Office of Public School Construction shall notify the board.

(b) The board shall impose the following penalties if an apportionment and fund release has been made based upon information in the project application or related materials that constitutes a material inaccuracy.

(1) Pursuant to a repayment schedule approved by the board of no more than five years, the school district shall repay to the board, for deposit into the 1998 State School Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State School Facilities Fund, as the case may be, an amount proportionate to the additional funding received as a result of the material inaccuracy including interest at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of state general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater.

(2) The board shall prohibit the school district from self-certifying certain project information for any subsequent applications for project funding for a period of up to five years following the date of the finding of a material inaccuracy or until the district's repayment of the entire amount owed under paragraph (1). Although a school district that is subject to this paragraph may not self-certify, the school district shall not be prohibited from applying for state funding under this chapter. The board shall establish an alternative method for state or independent certification of compliance that shall be applicable in these cases. The process shall include, but shall not be limited to, procedures for payment by the school district of any increased costs associated with the alternative certification process.

(c) For school districts found to have provided material inaccuracies when a funding apportionment has occurred, but no fund release has been made, the board shall direct its staff to reduce the apportionment as necessary to reflect the actual nature of the project and to disregard the inaccurate information or material, and paragraph (2) of subdivision (b) shall apply.

(d) For those school districts found to have provided material inaccuracies when no funding apportionment or fund release has been made, the inaccurate information or materials shall not be considered, and paragraph (2) of subdivision (b) shall apply. The project may continue if the application, minus the inaccurate materials, is still complete.

17070.55. Upon request of any school district, the State Department of Education shall provide assistance in the evaluation and utilization of existing school facilities and the justification of the need for schoolsites, new facilities, and the rehabilitation or replacement of existing facilities, in accordance with board regulations.

17070.60. Funding decisions made by the board shall not, in themselves, make the board liable for any tort, breach of contract, or any other action for damages caused by a school district arising

from new construction or modernization by the district. These contracts include, but are not limited to, contracts between the school district and its construction contractors, construction managers, architects, or engineers. The school district shall be liable for all torts, breaches of contract, or any other actions for damages caused by the school district.

17070.63. (a) The total funding provided under this chapter shall constitute the state's full and final contribution to the project and for eligibility for state facilities funding represented by the number of unhoued pupils for which the school district is receiving the state grant. As a condition of receipt of funds, a school district shall certify that the grant amount, combined with local funds, shall be sufficient to complete the school construction project for which the grant is intended.

(b) Any funds provided to a school district under any article in this chapter may not be counted towards the local match for receipt of funds under any other article in this chapter.

(c) Any savings achieved by the district's efficient and prudent expenditure of these funds shall be retained by the district in the county fund for expenditure by the district for other high priority capital outlay purposes.

17070.65. From any moneys in one of the funds established pursuant to Section 17070.40, as appropriate, and approved for this purpose in the annual Budget Act, the board shall make available to the Director of General Services the amounts that the board determines necessary for the Department of General Services to provide the assistance, pursuant to this chapter, required pursuant to Section 15504 of the Government Code to facilitate the construction, modernization, reconstruction, or alteration of, or addition to, school buildings.

17070.70. (a) Title, including, but not limited to, any leasehold interest as set forth in subdivision (c), to all property acquired, constructed, or improved with funds made available under this chapter shall be held by the school district to which the board grants the funds. Title, as defined solely for the purpose of a school district's eligibility to receive funds from the board pursuant to this chapter shall include an order for prejudgment possession issued by a court in an eminent domain proceeding.

(b) The applicant school district shall comply with all laws pertaining to the construction, reconstruction, or alteration of, or addition to, school buildings.

(c) Notwithstanding Section 17009.5, construction or modernization funds made available pursuant to this chapter may be expended upon property that is leased to the applicant school district only if the project qualified for and received approval by the board, prior to November 4, 1998, pursuant to Article 4 (commencing with Section 17055), of Chapter 12.

17070.71. (a) Notwithstanding subdivision (a) of Section 17070.70, new construction or modernization funded pursuant to this chapter may be upon real property leased to the applicant school district if all of the following conditions are met:

(1) The property is leased from another governmental entity.

(2) The term of the lease is for at least 40 years after approval of the project under this chapter, or the school district has a lease for at least 25 years on federal property. The board may authorize a lesser term, of not less than 30 years only if the board finds that granting an exception to this requirement would be in the state's best interest.

(b) The applicant school district, and the facility on leased land, if any, shall comply with all laws pertaining to the construction, reconstruction, or alteration of, or addition to, schoolsites and school buildings.

(c) Lease costs are not eligible project or site acquisition costs under this chapter.

17070.73. (a) A school district may claim the entire pupil attendance of a charter school that is physically located within its geographical jurisdiction, within the per-pupil eligibility calculation in support of a project for school facilities pursuant to this chapter.

(b) A school district shall not include the attendance of pupils attending a charter school that is physically located outside of the geographical jurisdiction of the school district, within the per-pupil eligibility calculation in support of an application for a project pursuant to this chapter.

(c) The requirements and conditions for funding charter school facilities in this section and in Article 12 (commencing with Section 17078.50) are intended to regulate only the funding of facilities under this chapter, and are not intended to expand, narrow, or raise any inference regarding, the nature or scope of any other law that is applicable to charter school governance, organization, or operation.

(d) Subdivisions (a) and (b) apply only to projects funded with the proceeds of state bonds approved by the voters after January 1, 2002.

17070.75. (a) The board shall require the school district to make all necessary repairs, renewals, and replacements to ensure that a project is at all times maintained in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the school district.

(b) In order to ensure compliance with subdivision (a) and to encourage school districts to maintain all buildings under their control, the board shall require an applicant school district to do all of the following prior to the approval of a project:

(1) Establish a restricted account within the general fund of the school district for the exclusive purpose of providing moneys for ongoing and major maintenance of school buildings, according the highest priority to funding for the purposes set forth in subdivision

(a).

(2) (A) Agree to deposit into the account established pursuant to paragraph (1), in each fiscal year for 20 years after receipt of funds under this chapter, a minimum amount equal to or greater than 3 percent of the total general fund expenditures of the applicant school district, including other financing uses, for that fiscal year. Annual deposits to the account established pursuant to paragraph (1) in excess of 2 1/2 percent of the school district general fund budget may count towards the amount of funds required to be contributed by a school district in order to receive apportionments from the State School Deferred Maintenance Fund pursuant to Section 17584 to the extent that those funds are used for purposes that qualify for funding under that section.

(B) Notwithstanding subparagraph (A), for the 2004-05 fiscal year only, an applicant school district shall deposit into the account established pursuant to paragraph (1), no less than 2 percent of the total general fund expenditures of the school district, including other financing uses, for the fiscal year. The annual deposit to the account in excess of 1 1/2 percent of the school district general fund budget for the 2004-05 fiscal year may count towards the amount that a school district is required to contribute in order to receive apportionments from the State School Deferred Maintenance Fund pursuant to Section 17584 to the extent that those funds are used for purposes that qualify for funding under that section.

(C) A school district contribution to the account may be provided in lieu of meeting the ongoing maintenance requirements pursuant to Section 17014 to the extent the funds are used for purposes established in that section. A school district that serves as the administrative unit for a special education local plan area may elect to exclude from its total general fund expenditures, for purposes of this paragraph, the distribution of revenues that are passed through to participating members of the special education local plan area.

(D) This paragraph applies only to the following school districts:

(i) High school districts with an average daily attendance greater than 300 pupils.

(ii) Elementary school districts with an average daily attendance greater than 900 pupils.

(iii) Unified school districts with an average daily attendance greater than 1,200 pupils.

(3) Certify that it has publicly approved an ongoing and major maintenance plan that outlines the use of the funds deposited, or to be deposited, pursuant to paragraph (2). The plan may provide that the school district need not expend all of its annual allocation for ongoing and major maintenance in the year in which it is deposited if the cost of major maintenance requires that the allocation be carried over into another fiscal year. However, any state funds carried over into a subsequent year may not be counted toward the annual minimum contribution by the school district. A plan developed in compliance with this section shall be deemed to meet the requirements of Section 17585.

(c) A school district to which paragraph (2) of subdivision (b) does not apply shall certify to the board that it can reasonably maintain its facilities with a lesser level of maintenance.

(d) For purposes of calculating a county office of education requirement pursuant to this section, the 3 percent maintenance requirement shall be based upon the county office of education

general fund less any restricted accounts.

(e) As a condition of participation in the school facilities program or the receipt of funds pursuant to Section 17582, for a fiscal year after the 2004-05 fiscal year, a school district shall establish a facilities inspection system to ensure that each of its schools is maintained in good repair.

(f) For purposes of this section, "good repair" has the same meaning as specified in subdivision (d) of Section 17002.

17070.755. A priority for the use of funds in the restricted account established pursuant to Section 17070.75, shall be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities.

17070.76. Notwithstanding Section 17070.75, for the 2003-04 fiscal year, the board shall only require a school district to deposit into the account established pursuant to paragraph (1) of subdivision (b) of Section 17070.75 an amount equal to 2 percent of the total expenditures by a district from its general fund in the 2003-04 fiscal year.

17070.77. (a) For each project funded after January 1, 2002, the board shall require the applicant school district governing board to certify, as part of the school district's annual budget process and beginning in the fiscal year in which the project is funded by the state, that it is in compliance with the plan adopted pursuant to paragraph (3) of subdivision (b) of Section 17070.75 for completing major maintenance requirements for the project.

(b) For purposes of this chapter, the term "major maintenance" means all actions necessary to keep roofing, siding, painting, floor and window coverings, fixtures, cabinets, heating and cooling systems, landscaping, fences, and other items designated by the governing board of the school district in good repair.

(c) The board shall require the school district's governing board to certify that the plan includes and is being implemented with all of the following components:

(1) Identification of the major maintenance needs for the project.

(2) Specification of a schedule for completing the major maintenance.

(3) Specification of a current cost estimate for the scheduled major maintenance needs.

(4) Specification of the school district's schedule for funding a reserve to pay for the scheduled major maintenance needs.

(5) Review of the plan annually, as a part of the school district's annual budget process, and update, as needed, the major maintenance needs, the estimates of expected costs, and any adjustments in funding the reserve.

(6) Availability for public inspection of the original plan, and all updated versions of the plan, at the office of the superintendent

of the school district during the working hours of the school district.

(7) Provision in the school district's annual budget for the reserve that contains the total funding available for scheduled major maintenance needs as specified in the updated plan, and an explanation if this amount of the reserve is less than that specified in the updated plan.

17070.80. (a) All school facilities purchased or newly constructed pursuant to this chapter for use, in whole or in part, by pupils who are individuals with exceptional needs, as defined in Section 56026, shall be designed and located on the schoolsite so as to maximize interaction between those individuals with exceptional needs and other pupils as appropriate to the needs of both.

(b) The governing board of each applicant school district and the county office of education shall ensure that school facilities for pupils who are individuals with exceptional needs are integrated with other school facilities.

(c) The State Allocation Board, after consultation with the State Department of Education and representatives from county offices of education, special education services regions, and school districts, shall develop and adopt any regulations necessary to implement this section.

(d) Notwithstanding any other provision of law, the requirement set forth in subdivision (a) may be waived, by the Superintendent of Public Instruction, only upon compliance with the following procedure:

(1) The applicant school district or county superintendent of schools shall file a written request for waiver that documents the reasons for its inability to comply with the requirement.

(2) The State Department of Education shall verify the reasons set forth pursuant to paragraph (1), including the documentation submitted, which verification shall be completed no later than 30 days after the filing of the request for waiver with the Superintendent of Public Instruction.

(3) The Advisory Commission on Special Education, as established under Section 33590, at its first scheduled meeting following the verification conducted pursuant to paragraph (2), shall review the request for waiver, accompanying documentation, and the verification findings of the State Department of Education. No later than 15 days following the date of that meeting, the commission shall submit its written comments and recommendations regarding the request for waiver to the Superintendent of Public Instruction.

(4) The Superintendent of Public Instruction shall review the comments and recommendations submitted by the Advisory Commission on Special Education prior to approving or rejecting the request for waiver.

(5) Any request for waiver, submitted in accordance with this section, that is not rejected within 60 days of its receipt by the State Department of Education, shall be deemed approved.

17070.85. Notwithstanding any other provision of law, a lien recorded on school district property that has been imposed pursuant

to Section 16019 or 17030 shall be released on the operative date of this section. The release shall conclusively protect any third party relying upon the same, and shall be acknowledged to permit recordation by the county recorder. On and after November 4, 1998, a lien may not be imposed pursuant to Section 16019 or Section 17030.

17070.90. As a part of its application, a school district shall certify that it has considered the feasibility of the joint use of land and facilities with other governmental entities in order to minimize school facilities costs. Funds provided pursuant to this chapter for growth and modernization may be used for the school portion of joint-use facilities.

17070.95. As a part of its application for large construction and modernization projects, a school district shall certify, in consultation with the career technical education advisory committee established pursuant to Section 8070, that it has considered the need for vocational and career technical facilities to adequately meet its program needs consistent with Section 51224, subdivision (b) of Section 51225.3, and Section 52336.1. The board shall adopt regulations necessary for administration of this section.

17070.955. In conjunction with an application of a school district for any construction or modernization project, and as a condition of the district receiving funds for the project, the career technical education advisory committee for the district shall provide written confirmation that the need for vocational and career technical facilities is being adequately met within the district consistent with Section 51224, subdivision (b) of Section 51225.3, subdivision (b) of Section 51228, and Section 52336.1.

17070.96. As part of its application for funding under this chapter, a school district shall certify that it has considered the feasibility of using designs and materials for the construction or modernization project that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools.

17070.97. The board shall require the school district to insure against public liability or property damage in connection with any facility constructed or modernized with an apportionment under this chapter.

17070.98. A school district that does not have employees who

possess adequate construction management experience may contract for the provision of construction management, and may use funds provided pursuant to Article 4 (commencing with Section 17072.10), Article 5 (commencing with Section 17072.20), and Article 7 (commencing with Section 17074.10) for the cost of those services as expressly authorized by Section 17072.35 and Section 17074.25.

17070.99. (a) The board shall conduct an evaluation on the cost of new construction and modernization of small high schools in conjunction with the pilot program established pursuant to subdivision (c) of Section 17072.10, as it read on January 1, 2005.

(b) The State Department of Education shall conduct an evaluation that focuses on pupil outcomes, including, but not limited to, academic achievement and college attendance rates, at the small high schools constructed pursuant to subdivision (c) of Section 17072.10, as it read on January 1, 2005, and on the reasons school districts do not currently opt to build small high schools.

(c) The evaluations required pursuant to subdivisions (a) and (b) shall be completed no later than two years after the opening of the last small high school constructed pursuant to subdivision (c) of Section 17072.10, as it read on January 1, 2005.

(d) The evaluations conducted pursuant to subdivisions (a) and (b) shall be used to inform the direction of future school facilities construction and related bond measures.

Article 2. Existing School Building Capacity

17071.10. (a) The calculation determined by this article shall be made on a one-time basis, and will be used as the baseline for eligibility determinations pursuant to this chapter.

(b) Each school district that elects to participate in the new construction program pursuant to this chapter shall submit to the board a one-time report of existing school building capacity.

(c) Notwithstanding subdivisions (a) and (b), a school district newly formed, reorganized, or affected by reorganization, pursuant to an election that occurred on or after November 4, 1998, shall calculate or recalculate its existing school building capacity pursuant to regulations adopted by the State Allocation Board.

17071.25. (a) The existing school building capacity in the applicant school district or, where appropriate, in the attendance area, at the time of initial application shall be calculated pursuant to the following formula:

(1) Identify by grade level all permanent teaching stations existing in the school district or, where appropriate, the attendance area. For the purposes of this section, "teaching station" means any space that was constructed or reconstructed to serve as an area in which to provide pupil instruction, but shall not include portable buildings, except as provided in Section 17071.30.

(2) (A) The assumed capacity of each calculated teaching station pursuant to paragraph (1) shall be 25 pupils for each teaching station used for kindergarten or for grades 1 to 6, inclusive, and 27 pupils for each teaching station used for grades 7 to 12, inclusive.

(B) On or after January 1, 2000, the board may adopt or amend regulations adjusting the assumed capacity set forth in this subparagraph as appropriate for each teaching station used for nonsevere or severe special day class purposes after considering the recommendations of the Legislative Analyst pursuant to Section 17072.15. These special day class capacity adjustments and any adjustment of existing school capacity related to changes in the assumed capacity of special day class teaching stations shall be approved by the Director of Finance prior to implementation.

(C) On or after January 1, 2001, the board may adopt regulations establishing assumed capacity standards after consideration of the recommendations developed by the Director of General Services for continuation high school, community day school, county community school, and county community day school, teaching stations pursuant to Section 17072.17. Teaching station assumed capacity adjustments pursuant to these regulations and any other adjustments of existing school capacity related to changes in the assumed capacity of continuation high school, community day school, county community school, and county community day school, teaching stations shall be approved by the Director of Finance prior to implementation.

(3) Multiply the assumed capacity of each teaching station as specified in paragraph (2) by the number of teaching stations calculated under paragraph (1).

(4) The result of this computation shall be the number of pupils housed by grade level in the existing school building capacity of the

applicant school district.

(b) The existing school building capacity of the applicant school district calculated under this section shall not include, in any school operated on a year-round schedule, any teaching station that has been in continuous use during the preceding five-year period primarily for the operation of a preschool program or programs.

17071.30. For purposes of determining the existing school building capacity, each applicant school district shall include each portable classroom, whether owned or leased, except as otherwise provided in subdivision (a) or (b).

(a) Portable classrooms leased pursuant to Chapter 14 (commencing with Section 17085) shall be excluded from the existing school building capacity. Portable classrooms obtained by an applicant district pursuant to subdivision (b) of Section 17088.5 shall be excluded from the existing school building capacity, except as to any portable classroom or classrooms for which the district rejected the board's offer to purchase pursuant to that subdivision. Portable classrooms leased for a period of less than five years prior to the date of application shall not be included in existing school building capacity.

(b) The number of portable classrooms, reduced by the number of portable classrooms used as interim housing for modernization projects, that exceed 25 percent of the number of permanent classrooms available to the district shall not be included in the existing building capacity.

17071.33. (a) For the purposes of determining existing school building capacity, the calculation shall be adjusted as required for first priority status pursuant to Section 17017.7 as that calculation would have been made under the policies of the board in effect immediately preceding September 1, 1998.

(b) Notwithstanding subdivision (a), with respect to a high school district, the existing school building capacity shall be calculated without regard to multitrack year-round school considerations.

17071.35. Notwithstanding any other provisions of law, the maximum school building capacity for each applicant district shall be increased by the number of pupils reported by the Superintendent of Public Instruction for that grade level pursuant to Section 42268. This adjustment shall be calculated on the basis, at the district's option, of either the district as a whole or the appropriate attendance area.

17071.40. Each school on a year-round, multitrack calendar that has a density of 200 or more pupils enrolled per acre, that is located in a school district with 40 percent of its pupils attending multitrack, year-round schools shall be exempted from the increase in school building capacity required by Section 17071.35. Nothing in

this section shall be construed as exempting the school from the requirements of Section 17071.33.

17071.46. (a) If an applicant school district proposes to demolish a single-story building and replace it with a multistory building on the same site, the State Allocation Board shall provide a supplemental grant for 50 percent of the replacement cost of the single-story building to be demolished, if all of the following conditions are met:

(1) The cost of the demolition and construction of a new multistory building on the same site is less than the total cost of providing a new school facility, including land, on a new site for the additional number of pupils housed as a result of the multistory replacement building on the existing site, as determined by the State Allocation Board. For purposes of this subdivision, the method of estimating the site acquisition costs savings shall be based on previous actual site sizes and acquisition costs in the district for equivalent numbers of pupils, or as otherwise determined by the board if actual site acquisition comparisons are not available for the district.

(2) The school district will maximize the increase in pupil capacity on the site when it builds the multistory replacement building, subject to the limits imposed on it pursuant to paragraph (3).

(3) The State Department of Education has determined that the demolition of an existing single-story building and replacement with a multistory building at the site is the best available alternative and will not create a school with an inappropriate number of pupils in relation to the size of the site, as determined by the State Department of Education.

(b) The State Allocation Board shall establish additional requirements it deems necessary to ensure that the economic interests of the state and the educational interests of the children of the state are protected.

Article 3. New Construction Eligibility Determination

17071.75. After a one-time initial report of existing school building capacity has been completed, the ongoing eligibility of a school district for new construction funding shall be determined by making all of the following calculations:

(a) A school district that applies to receive funding for new construction shall use the following methods to determine projected enrollment:

(1) A school district that has two or more schoolsites each with a pupil population density that is greater than 115 pupils per acre in kindergarten and grades 1 to 6, inclusive, or a schoolsite pupil population density that is greater than 90 pupils per acre in grades 7 to 12, inclusive, as determined by the Superintendent using enrollment data from the California Basic Educational Data System for the 2004-05 school year, may submit an application for funding for projects that will relieve overcrowded conditions. That school district may also submit an alternative enrollment projection for the fifth year beyond the fiscal year in which the application is made using a methodology other than the cohort survival method as defined by the board pursuant to paragraph (2), to be reviewed by the Demographic Research Unit of the Department of Finance, in consultation with the department and the Office of Public School Construction. If the Office of Public School Construction and the Demographic Research Unit of the Department of Finance jointly determine that the alternative enrollment projection provides a reasonable estimate of expected enrollment demand, a recommendation shall be forwarded to the board to approve or disapprove the application, in accordance with all of the following:

(A) Total funding for new construction projects using this method shall be limited to five hundred million dollars (\$500,000,000), from the Kindergarten-University Public Education Facilities Bond Act of 2004.

(B) The eligibility amount for proposed projects that relieve overcrowding is the difference between the alternative enrollment projection method for the year the application is submitted and the cohort survival method, as defined by paragraph (2), for the same year, adjusted by the existing pupil capacity in excess of the projected enrollment according to the cohort survival projection method.

(C) The Office of Public School Construction shall determine whether each proposed project will relieve overcrowding, including, but not limited to, the elimination of the use of Concept 6 calendars, four track year-round calendars, or busing in excess of 40 minutes, and recommend approval to the board. The number of unhoused pupil grants requested in the application for funding from the eligibility determined pursuant to this paragraph shall be limited to the number of seats necessary to relieve overcrowding, including, but not limited to, the elimination of the use of Concept 6 calendars, four track year-round calendars, or busing in excess of 40 minutes, less the number of unhoused pupil grants attributed to that school as a source school in an approved application pursuant to Section 17078.24.

(D) A school district shall use the same alternative enrollment projection methodology for all applications submitted pursuant to this paragraph and shall calculate those projections in accordance

with the same districtwide or high school attendance area used for the enrollment projection made pursuant to paragraph (2).

(2) A school district shall calculate enrollment projections for the fifth year beyond the fiscal year in which the application is made. Projected enrollment shall be determined by utilizing the cohort survival enrollment projection system, as defined and approved by the board. The board may supplement the cohort survival enrollment projection by the number of unhoused pupils that are anticipated as a result of dwelling units proposed pursuant to approved and valid tentative subdivision maps.

(b) (1) Add the number of pupils that may be adequately housed in the existing school building capacity of the applicant school district as determined pursuant to Article 2 (commencing with Section 17071.10) to the number of pupils for whom facilities were provided from any state or local funding source after the existing school building capacity was determined pursuant to Article 2 (commencing with Section 17071.10). For this purpose, the total number of pupils for whom facilities were provided shall be determined using the pupil loading formula set forth in Section 17071.25.

(2) Subtract from the number of pupils calculated in paragraph (1) the number of pupils that were housed in facilities to which the school district or county office of education relinquished title as the result of a transfer of a special education program between a school district and a county office of education or special education local plan area, if applicable. For this purpose, the total number of pupils that were housed in the facilities to which title was relinquished shall be determined using the pupil loading formula adopted by the board pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 17071.25. For purposes of this paragraph, title also includes any lease interest with a duration of greater than five years.

(c) Subtract the number of pupils pursuant to subdivision (b) from the number of pupils determined pursuant to paragraph (2) of subdivision (a).

(d) The calculations required to establish eligibility under this article shall result in a distinction between the number of existing unhoused pupils and the number of projected unhoused pupils.

(e) Apply the increase or decrease resulting from the difference between the most recent report made pursuant to Section 42268, and the report used in determining the baseline capacity of the school district pursuant to subdivision (a) of Section 17071.25.

(f) For purposes of calculating projected enrollment pursuant to subdivision (a), the board may adopt regulations to ensure that the enrollment calculation of individuals with exceptional needs receiving special education services is adjusted in the enrollment reporting period in which the transfer occurs and three previous school years as a result of any transfer of a special education program between a school district and a county office of education or a special education local plan area. However, the projected enrollment calculation of a county office of education shall only be adjusted if a transfer of title for the special education program facilities has occurred. The regulations, if adopted, shall ensure that if a transfer of title to special education program facilities constructed with state funds occurs within 10 years after initial occupancy of the facility, the receiving school district or school districts shall remit to the state a proportionate share of any financial hardship assistance provided for the project pursuant to

Section 17075.10, if applicable.

(g) For a school district with an enrollment of 2,500, or less, an adjustment in enrollment projections shall not result in a loss of ongoing eligibility to that school district for a period of three years from the date of the approval of eligibility by the board.

17071.76. (a) Whenever the existing school building capacity in any high school attendance area prevents another high school attendance area from receiving the maximum per-unhoused-pupil grant specified for the school district as a whole, the eligibility may be computed separately for each high school attendance area.

(b) For the purposes of eligibility, a school district may combine two or more adjacent high school attendance areas pursuant to the following conditions:

(1) The funding eligibility is for the construction of a high school, junior high school, or elementary school located or to be located in any of those high school attendance areas.

(2) The high school, junior high school, or elementary school to be constructed is to serve pupils residing in each of those high school attendance areas.

(3) The combined eligibility reflects the eligibility to which each of the high school attendance areas would otherwise be entitled, reflecting the proportion of projected pupil enrollment in the school to be constructed, as calculated under this chapter, from each of those attendance areas.

Article 4. New Construction Grant Eligibility Determination

17072.10. (a) The board shall determine the applicant's maximum total new construction grant eligibility by multiplying the number of unhoused pupils calculated pursuant to Article 3 (commencing with Section 17071.75) in each school district with an approved application for new construction, by the per-unhoused-pupil grant as follows:

(1) Five thousand two hundred dollars (\$5,200) for elementary school pupils.

(2) Five thousand five hundred dollars (\$5,500) for middle school pupils.

(3) Seven thousand two hundred dollars (\$7,200) for high school pupils.

(b) The board shall annually adjust the per-unhoused-pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B construction as determined by the board.

(c) (1) Commencing January 1, 2006, notwithstanding subdivisions (a) and (b), for a small high school, the maximum total new construction grant shall be adjusted to reflect 120 percent of the amounts determined pursuant to subdivisions (a) and (b). The board shall adopt regulations, in consultation with the Superintendent of Public Instruction, to establish criteria to ensure that this adjustment is available to multiple small high schools on a pilot program basis and only for those applicant school districts that propose to build a small high school as part of an academic reform strategy that focuses on the positive outcomes that small high schools encourage. The board shall set aside a total amount of twenty million dollars (\$20,000,000) for this purpose from the proceeds of state bonds approved by the voters pursuant to the Kindergarten-University Public Education Facilities Bond Act of 2002 (Part 68.1 (commencing with Section 100600)) and the Kindergarten-University Public Education Facilities Bond Act of 2004 (Part 68.2 (commencing with Section 100800)). The board shall also adopt regulations, in consultation with the Superintendent of Public Instruction, to implement the pilot program, including, but not limited to, allowing a sufficient filing period for applications in order to ensure that the pilot program encompasses school districts from the northern, southern, and central regions of the state and from urban, suburban, and rural areas so that the pilot program participants are broadly representative of the state.

(2) Paragraph (1) does not apply in those circumstances where a small high school would otherwise have been built because of sparse population in the geographical area.

(d) The board may adopt regulations to be effective until July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026. The regulations shall be amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15.

(e) The board may establish a single supplemental per-unhoused-pupil grant in addition to the amounts specified in subdivision (a) based on the statewide average marginal difference in costs in instances where a project requires multilevel school facilities due to limited acreage. The district's application shall

demonstrate that a practical alternative site is not available.

(f) For a school district having an enrollment of 2,500 or less for the prior fiscal year, the board may approve a supplemental apportionment of up to seven thousand five hundred dollars (\$7,500) for any new construction project assistance. The amount of the supplemental apportionment authorized pursuant to this subdivision shall be adjusted in 2001 and every year thereafter by an amount equal to the percentage adjustment for class B construction.

(g) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

17072.10. (a) The board shall determine the applicant's maximum total new construction grant eligibility by multiplying the number of unhoused pupils calculated pursuant to Article 3 (commencing with Section 17071.75) in each school district with an approved application for new construction, by the per-unhoused-pupil grant as follows:

(1) Five thousand two hundred dollars (\$5,200) for elementary school pupils.

(2) Five thousand five hundred dollars (\$5,500) for middle school pupils.

(3) Seven thousand two hundred dollars (\$7,200) for high school pupils.

(b) The board shall annually adjust the per-unhoused-pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B construction as determined by the board.

(c) Any regulations adopted by the board prior to July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026, as amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15, shall continue in effect.

(d) The board may establish a single supplemental per-unhoused-pupil grant in addition to the amounts specified in subdivision (a) based on the statewide average marginal difference in costs in instances where a project requires multilevel school facilities due to limited acreage. The district's application shall demonstrate that a practical alternative site is not available.

(e) For a school district having an enrollment of 2,500 or less for the prior fiscal year, the board may approve a supplemental apportionment of up to seven thousand five hundred dollars (\$7,500) for any new construction project assistance. The amount of the supplemental apportionment authorized pursuant to this subdivision shall be adjusted in 2008 and every year thereafter by an amount equal to the percentage adjustment for class B construction.

(f) This section is operative January 1, 2008.

17072.11. (a) All of the following shall apply on and after July 1, 2006, until January 1, 2008:

(1) The per-unhoused-pupil grant eligibility determined under paragraphs (1) and (2) of subdivision (a) of Section 17072.10 shall be increased by 7 percent.

(2) The per-unhoused-pupil grant eligibility determined under paragraph (3) of subdivision (a) of Section 17072.10 shall be increased by 4 percent.

(3) The board shall conduct an analysis of the relationship between the per-unhoused-pupil grant eligibility determined under this article and the per-pupil cost of new school construction for elementary, middle, and high school pupils.

(b) On or after January 1, 2008, the board shall increase or decrease the per-unhoused-pupil grant eligibility by amounts it deems necessary to cause the grants to correspond to costs of new school construction, provided that the increase in any fiscal year pursuant to this section shall not exceed 6 percent.

17072.12. (a) In addition to the amount provided in Section 17072.10, the board may provide funding for assistance in site development and acquisition if all of the following are met:

(1) The amount of the site acquisition and development assistance does not exceed 50 percent of the cost of site development to the school district, plus the lesser of the following:

(A) 50 percent of the site cost to the school district.

(B) 50 percent of the appraised value of the site within six months of the time the complete application is submitted.

(2) The school district certifies that there is no alternative available site, or that the district plans to sell an available site in order to use the proceeds of the sale for the purchase of the new site.

(b) Notwithstanding subdivision (a), the board may provide funding for assistance in site development and acquisition to a school district that uses land previously acquired by the school district in an amount equal to 50 percent of the cost of site development to the school district, plus 50 percent of the site's appraised value at the time the application for site acquisition and development is submitted, provided all of the following are met:

(1) The site was acquired no less than five years prior to the date the application is submitted.

(2) The site had been productively used by the school district as other than a schoolsite for the five years immediately preceding the date the application is submitted.

(3) The board determines that the nonschool function currently taking place on the site must be discontinued or relocated in order to utilize the site as a schoolsite.

(c) A school district that receives assistance pursuant to subdivision (b) shall, within one year after the completion of the project, certify in writing to the board that the nonschool function was in fact relocated as set forth in paragraph (4) of subdivision (b).

(d) Pursuant to subdivision (b), an applicant school district shall include in its application to the board a cost-benefit analysis performed by the school district demonstrating how utilizing existing nonschoolsite district property pursuant to this section would be a more effective method of solving the school district's pupil housing problems than any other method of funding under this chapter. The board shall review and approve the analysis if the board agrees with the findings and shall consider the analysis and findings in approving the project pursuant to this section.

17072.13. In addition to the amounts provided pursuant to Sections 17072.10 and 17072.12, the board may provide site acquisition and hazardous materials evaluation and response action funding for proposed new schoolsites as follows:

(a) (1) For 50 percent of the cost of the evaluation of hazardous materials at a site to be acquired by a school district and for 50 percent of the other response action costs of the removal of hazardous waste or solid waste, the removal of hazardous substances, or other response action in connection with hazardous substances at that site. Except as provided in subdivision (b), the funding provided pursuant to this section may not exceed 50 percent of the total evaluation and response action costs, including, but not limited to, the costs of the removal of hazardous waste or solid waste, the removal of hazardous substances, or other response action, as determined by the Department of Toxic Substances Control, in connection with hazardous substances at that site, pursuant to standards adopted by the board.

(2) For projects eligible for funding under this subdivision, the total state share of the site acquisition costs, including evaluation and response action, shall not exceed 50 percent of 1 1/2 times the appraised value of the uncontaminated site. However, the board may exceed this maximum for projects that demonstrate circumstances of extreme need.

(b) (1) The board may provide funding for up to 100 percent of the cost of the evaluation of hazardous materials at a site to be acquired by a school district eligible for financial hardship assistance pursuant to Article 8 (commencing with Section 17075.10) and for up to 100 percent of the other response action costs for the site. The funding provided pursuant to this subdivision may not exceed 100 percent of the total evaluation and response action costs, including, but not limited to, the costs of the removal of hazardous waste or solid waste, the removal of hazardous substances, or other response action, as determined by the Department of Toxic Substances Control, in connection with hazardous substances at that site, pursuant to standards adopted by the board.

(2) The board may provide funding pursuant to this subdivision only if the State Department of Education certifies that the site is the best available site considering all of the following factors in relation to other available sites:

(A) The total costs of the project, including, but not limited to, costs of evaluation and response action.

(B) The desirability of the site, considering its proximity to pupils and suitability for meeting the educational and safety needs of the school district.

(C) The time required to fully complete the project in relation to the current and projected need for school facilities.

(3) For projects eligible for funding under this subdivision, the total state share of the site acquisition costs, including evaluation and response action, shall not exceed 100 percent of 1 1/2 times the appraised value of the uncontaminated site. However, the board may exceed this maximum for projects that demonstrate circumstances of extreme need.

(c) A school district with a proposed site that meets the environmental hardship criteria set forth in paragraph (1) may apply

to the board for site acquisition, including, but not limited to, evaluation and response action, funding for that site prior to having construction plans for that site approved by the Division of the State Architect and State Department of Education.

(1) A project is eligible for environmental hardship site acquisition funding if both of the following apply:

(A) The preparation and implementation of a response action for the site, to be approved by the Department of Toxic Substances Control pursuant to Section 17213, is estimated by the Department of Toxic Substances Control to take six months or more to complete.

(B) The State Department of Education determines that the site is the best available alternative site.

(2) The initial site-specific reservation pursuant to this subdivision shall be for a period of one year. Extension may be approved in one-year intervals upon demonstration to the State Allocation Board of progress toward acquisition, including, but not limited to, evaluation or response, as the case may be. In the event there is not demonstrable progress, the State Allocation Board shall have the option of rescinding the reservation.

(3) Environmental hardship site acquisition funds approved by the State Allocation Board can be used only for the site identified in the response action approved by the Department of Toxic Substances Control.

(4) The date that the State Allocation Board approves the environmental hardship site acquisition funding will become the State Allocation Board approval date for the project's construction funding for that site.

(5) A school district may apply to the State Allocation Board for construction funding for the environmental hardship site when the project has received final Division of the State Architect plan approval and final State Department of Education site and plan approval.

(d) The cost incurred by the school districts when complying with any requirement identified in this section are allowable costs for purposes of an applicant under this chapter and may be reimbursed in accordance with this section.

(e) The State Allocation Board shall develop regulations that allow school districts with financial hardship site acquisition, including, but not limited to, evaluation and response action, funding prior to ownership of the site or evidence that the site is in escrow.

17072.14. Notwithstanding Section 17070.63, the board may allow adjustments to a new construction grant if, as a result of additional requirements imposed by the Department of Toxic Substances Control, the actual amount paid by a school district for allowable costs of hazardous materials evaluation and removal, including associated fees, exceeds the amount of the grant apportionment for those purposes. The combined amount of the initial apportionment for these purposes and the adjustment pursuant to this section may not exceed the amount permitted pursuant to Section 17072.13.

17072.15. In conjunction with the State Department of Education and the Department of Finance, the Legislative Analyst shall review the

method of funding the construction and modernization of school facilities for special education pupils and the amount provided per unhouseed special education pupil pursuant to Sections 17072.10 and 17074.10. Pursuant to this review, the Legislative Analyst shall recommend modifications to this method that he or she deems to be advisable on or before September 1, 1999.

17072.17. In conjunction with the State Department of Education, the Department of Finance, and the Legislative Analyst, the Department of General Services shall review the method of funding the construction and modernization of school facilities for continuation high school, community day school, county community school, and county community day school, teaching stations pursuant to Sections 17072.10 and 17074.10. Pursuant to this review, the Director of General Services shall, by September 1, 2000, recommend modifications to this method that he or she deems to be advisable.

17072.18. (a) (1) The board may provide evaluation and response action funding for response costs of the removal of hazardous waste or solid waste, the removal of hazardous substances, or other response action in connection with hazardous substances at an existing schoolsite, in the same manner as provided in Section 17072.13.

(2) Funding as set forth in paragraph (1) may be provided to a school district that has not applied for, or received, funds from the board for the acquisition of a new schoolsite, but which has incurred, or will incur, response costs necessary for the development of the existing schoolsite, if the school district is otherwise eligible for funding under this chapter.

(b) A school district may apply for funding pursuant to this section prior to having construction plans for that site approved by the Division of the State Architect or by the State Department of Education if the school district is otherwise eligible for funding under this chapter.

Article 5. New Construction Funding Process

17072.20. (a) An applicant school district that has been determined by the board to meet the eligibility requirements for new construction funding set forth in Article 2 (commencing with Section 17071.10) or Article 3 (commencing with Section 17071.75) may submit at any time a request to the board for a project apportionment for all or a portion of the funding for which the school district is eligible.

(b) The application shall include, but shall not be limited to, the school district's determination of the amount of state funding that the district is otherwise eligible for relating to site acquisition, site development, new construction, and hardship funding provided pursuant to Article 8 (commencing with Section 17075.10), if any. The amount shall be reduced by the amount of the alternative fee collected pursuant to subdivision (a) of Section 65995.7 of the Government Code if a reimbursement election or agreement pursuant to Section 65995.7 of the Government Code is not in effect.

(c) The board shall verify and adjust, as necessary, and approve the district's application.

17072.25. (a) The board shall adopt regulations to develop a mechanism to rank approved applications for new construction funding.

This mechanism shall be used to determine the priority of approved applications when either of the following conditions are met:

(1) The total state funds necessary for funding all approved projects pursuant to this chapter exceed the total state funds in the fund for allocation pursuant to this chapter.

(2) The actual amount of unallocated proceeds of state bonds available on or after July 1, 2000, for new construction for the purposes of this chapter is at three hundred million dollars (\$300,000,000).

(b) The ranking mechanism shall allocate priority points based upon the percentages of currently and projected unhoused pupils relative to the total population of the applicant district or attendance area and the total number of currently and projected unhoused pupils in an applicant district or attendance area.

(c) The board may award priority points based on other factors that in its judgment result in the most equitable distribution of resources among applicants. The additional factors may not constitute greater than a 10-percent weight in the overall priority ranking.

(d) This section shall apply only to projects funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.

17072.30. (a) Subject to the availability of funds, and to the determination of priority pursuant to Section 17072.25, if applicable, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, and certification by the school district that the required 50 percent matching funds from local sources have been expended by the

district for the project, or have been deposited in the county fund, or will be expended by the district by the time the project is completed, in an amount at least equal to the proposed apportionment pursuant to this chapter, prior to release of the state funds.

(b) Notwithstanding subdivision (a), subject to the availability of funds, the board shall, for a project to construct a small high school pursuant to subdivision (c) of Section 17072.10, apportion funds to an eligible school district only upon approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, and certification by the school district that the required 40 percent matching funds from local sources have been expended by the district for the project, or have been deposited in the county fund, or will be expended by the district by the time the project is completed, in an amount at least equal to 40 percent of the total project costs pursuant to this chapter, prior to release of the state funds.

(c) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

17072.30. (a) Subject to the availability of funds, and to the determination of priority pursuant to Section 17072.25, if applicable, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, and certification by the school district that the required 50 percent matching funds from local sources have been expended by the district for the project, or have been deposited in the county fund, or will be expended by the district by the time the project is completed, in an amount at least equal to the proposed apportionment pursuant to this chapter, prior to release of the state funds.

(b) This section is operative January 1, 2008.

17072.32. (a) For any project that has received an apportionment pursuant to subdivision (a) of Section 17072.30, funding shall be released in amounts equal to the amount of the local match upon certification by the school district that the school district has entered into a binding contract for completion of the approved project.

(b) Notwithstanding subdivision (a), for any project for construction of a small high school, pursuant to subdivision (c) of Section 17072.10, that has received an apportionment pursuant to subdivision (b) of Section 17072.30, funding shall be released in amounts equal to 60 percent of the total project costs upon certification by the school district that the school district has entered into a binding contract for completion of the approved project.

(c) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

17072.32. (a) For any project that has received an apportionment pursuant to Section 17072.30, funding shall be released in amounts equal to the amount of the local match upon certification by the school district that the school district has entered into a binding contract for completion of the approved project.

(b) This section is operative January 1, 2008.

17072.33. In the case of site acquisition, a district may request that the state's share of site assistance be provided to the district in amounts equal to the amount of the local match when the district enters escrow for a site included within a project.

17072.35. A grant for new construction may be used for any and all costs necessary to adequately house new pupils in any approved project, and those costs may only include the cost of design, engineering, testing, inspection, plan checking, construction management, site acquisition and development, evaluation and response action costs relating to hazardous substances at a new or existing schoolsite, demolition, construction, acquisition and installation of portable classrooms, landscaping, necessary utility costs, utility connections and other fees, equipment including telecommunication equipment to increase school security, furnishings, and the upgrading of electrical systems or the wiring or cabling of classrooms in order to accommodate educational technology. A grant for new construction may also be used to acquire an existing government or privately owned building, or a privately financed school building, and for the necessary costs of converting the government or privately owned building for public school use. A grant for new construction may also be used for the costs of designs and materials that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools.

Article 6. Modernization Eligibility Determination

17073.10. Each school district that desires to receive an apportionment for modernization under this chapter shall submit an application in a form, and in the number of copies, that the board may require.

17073.15. A school district is eligible to receive an apportionment for the modernization of a permanent school building that is more than 25 years old or a portable classroom that is at least 20 years old. A school district is eligible to receive an additional apportionment for the modernization of a permanent school building every 25 years after the date of the previous apportionment or a portable classroom every 20 years after the previous apportionment.

17073.20. Funding may be approved for the modernization of any permanent school building that is more than 25 years old, or any portable classroom that is more than 20 years old, as described in Section 17071.30.

17073.25. (a) Notwithstanding any provision of law to the contrary, the State Department of Education is eligible for modernization grants pursuant to this article for facilities of the California School for the Deaf (Chapter 1 (commencing with Section 59000) of Part 32) and the California School for the Blind (Chapter 2 (commencing with Section 59100) of Part 32).

(b) The department is eligible for per-pupil funding under this article to the same extent and in the same manner as a school district, except that the hardship provisions do not apply. However, notwithstanding the 60 percent maximum funding for modernization projects, as set forth in Section 17074.16, the project shall be funded at 100 percent of the project costs, subject to per-pupil eligibility.

(c) The board shall establish a process specifically tailored to consideration of the unique aspects of applications presented by the department pursuant to this section.

(d) This section applies only to projects for expenditure of the proceeds of state bonds approved by the voters after January 1, 2002.

Article 7. Modernization Apportionment

17074.10. (a) The board shall determine the total funding eligibility of a school district for modernization funding by multiplying the following amounts by each pupil of that grade level housed in school buildings that satisfy the requirements of Section 17073.15:

(1) Two thousand two hundred forty-six dollars (\$2,246) for each elementary pupil.

(2) Two thousand three hundred seventy-six dollars (\$2,376) for each middle school pupil.

(3) Three thousand one hundred ten dollars (\$3,110) for each high school pupil.

(b) The board shall annually adjust the factors set forth in subdivision (a) according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the board.

(c) The board may adopt regulations to be effective until July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026. The regulations shall be amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15.

(d) It is the intent of the Legislature that the amounts provided pursuant to this article for school modernization do not include funding for administrative and overhead costs.

(e) For a school district having an enrollment of 2,500 or less for the prior fiscal year, the board may approve a supplemental apportionment of up to two thousand five hundred dollars (\$2,500) for any modernization project assistance. The amount of the supplemental apportionment shall be adjusted in 2001 and every year thereafter by an amount equal to the percentage adjustment for class B construction.

(f) For a portable classroom that is eligible for a second modernization, the board shall require the school district to use the modernization funds to replace the portable classroom and to certify that the existing eligible portable classroom will be removed from any classroom use, unless the school district is able to document that modernizing the portable classroom is a better use of public resources. The capacity and eligibility of the school district shall not be adjusted for replacing a portable classroom pursuant to this subdivision and Section 17073.15.

17074.15. (a) The board shall release disbursements to school districts with approved applications for modernization, to the extent state funds are available for the state's 80-percent share, and the school district has provided its 20-percent local match. Subject to the availability of funds, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, including, but not limited to, a project that complies with the Field Act by complying with Section 17280.5, and evidence that the certification by the school district that the required 20-percent matching funds from local sources have been

expended by the district for the project, or have been deposited in the county fund or will be expended by the district by the time of completion of the project, and evidence that the district has entered into a binding contract for the completion of that project. If state funds are insufficient to fund all qualifying school districts, the board shall fund all qualifying school districts in the order in which the application for funding was approved by the board.

(b) This section shall apply only to an application filed on or before April 29, 2002, regardless of the source of state bond funding.

17074.16. (a) The board shall release disbursements to school districts with approved applications for modernization, to the extent state funds are available for the state's 60-percent share, and the school district has provided its 40-percent local match. Subject to the availability of funds, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, including, but not limited to, a project that complies with the Field Act by complying with Section 17280.5, and evidence that the certification by the school district that the required 40-percent matching funds from local sources have been expended by the district for the project, or have been deposited in the county fund or will be expended by the district by the time of completion of the project, and evidence that the district has entered into a binding contract for the completion of that project. If state funds are insufficient to fund all qualifying school districts, the board shall fund all qualifying school districts in the order in which the application for funding was approved by the board.

(b) This section shall apply only to an application that was filed after April 29, 2002.

17074.20. As a condition for the receipt of funds under this article, a school district shall ensure that all buildings modernized comply with Sections 17212, 17212.5, and 17213.

17074.25. A modernization apportionment may be used for an improvement to extend the useful life of, or to enhance the physical environment of, the school. The improvement may only include the cost of design, engineering, testing, inspection, plan checking, construction management, demolition, construction, the replacement of portable classrooms, necessary utility costs, utility connection and other fees, the purchase and installation of air-conditioning equipment and insulation materials and related costs, furniture and equipment, including telecommunication equipment to increase school security, fire safety improvements, playground safety improvements, the identification, assessment, or abatement of hazardous asbestos, seismic safety improvements, and the upgrading of electrical systems or the wiring or cabling of classrooms in order to accommodate educational technology. A modernization grant may not be used for costs associated with acquisition and development of real estate or for routine maintenance and repair.

17074.26. The board shall adopt regulations to adjust the per-pupil amounts set forth in Section 17074.14 for modernization projects for school buildings that are 50 years old or older based upon the higher costs associated with modernizing older buildings.

17074.27. In addition to the uses specified in Section 17074.25, a modernization apportionment may also be used for the control, management, or abatement of lead.

17074.30. Commencing with applications submitted after January 1, 2004, any school district applying for funding pursuant to this article shall certify that it has considered the potential for the presence of lead-containing materials in the modernization projects and will follow all relevant federal, state, and local standards for the management of any identified lead.

17074.32. (a) A high school with an enrollment of 1,000 or more pupils that is seeking to reconfigure into two or more small high schools, as defined in subdivision (m) of Section 17070.15, shall be eligible for additional modernization funding to assist with costs generated by the reconfiguration. Reconfiguration can specifically allow some limited new construction necessary to accommodate the reconfiguration. The board shall set aside a total amount of five million dollars (\$5,000,000), from the proceeds of state bonds approved by the voters pursuant to the Kindergarten-University Public Education Facilities Bond Act of 2002 (Part 68.1 (commencing with Section 100600)) and the Kindergarten-University Public Education Facilities Bond Act of 2004 (Part 68.2 (commencing with Section 100800)), for purposes of this additional modernization funding and no single project shall be granted, in the aggregate, more than five hundred thousand dollars (\$500,000).

(b) The board shall adopt regulations to implement this section.

(c) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

Article 7.5. Automatic Fire Detection, Alarm, and Sprinkler Systems

17074.50. (a) On and after July 1, 2002, all new construction projects submitted to the Division of the State Architect pursuant to this chapter, including, but not limited to, hardship applications, that require the approval of the Department of General Services shall include an automatic fire detection, alarm, and sprinkler system as set forth in Section 17074.52 and approved by the State Fire Marshal.

These provisions shall entitle the school district to all applicable reductions in code requirements, as provided in the California Building Standards Code (Title 24 of the California Code of Regulations).

(b) On and after July 1, 2002, all modernization projects that have an estimated total cost in excess of two hundred thousand dollars (\$200,000) submitted to the Division of the State Architect pursuant to this chapter, including, but not limited to, hardship applications, that require the approval of the Department of General Services shall include an automatic fire detection and alarm system as set forth in Section 17074.52 and approved by the State Fire Marshal. For a modernization project that is to be completed in more than one phase, the school district may defer installation of the system until the final phase of the modernization project. Solely for purposes of this section, "modernization" means any modification of a permanent structure or construction of a new building on an existing campus.

(c) The Department of General Services shall administer this section based upon the standards adopted by the State Fire Marshal pursuant to Section 17074.52.

17074.52. (a) For modernization projects, the automatic fire detection and alarm system required pursuant to subdivision (b) of Section 17074.50 shall consist of smoke or heat detectors, or a combination thereof, as determined by the State Fire Marshall, installed in the school building. The alarm, upon activation of an initiating device, shall alert all occupants and shall transmit the alarm signal to an approved supervising station.

(b) For new construction projects, the automatic fire detection, alarm, and sprinkler system required pursuant to subdivision (a) of Section 17074.50, shall in addition to compliance with subdivision (a), include an automatic fire sprinkler system installed in the school building including, but not necessarily limited to, attic spaces.

(c) Notwithstanding Section 17074.50 or subdivisions (a) or (b) of this section, for a stand alone portable building, the system required pursuant to this article shall consist of an automatic fire detection and alarm system. For the purposes of this subdivision a "stand alone portable building" means a portable building that is used as a single classroom and that is sited more than 25 feet from any other building, including, but not limited to, any other portable building.

(d) Except as required for automatic fire detectors and waterflow detection devices, manual fire alarm boxes shall not be required throughout the school building.

(e) The entire system shall be installed, tested, and maintained in accordance with the regulations of the State Fire Marshal.

17074.54. (a) A portable building that is sited with the intent that it be at the site for less than three years and is sited upon a temporary foundation in a manner that is designed to permit easy removal, is exempt from Sections 17074.50 and 17074.52 for a period of three years from the date of siting.

(b) After the three-year exemption set forth in subdivision (a), a school district may request an extension of the exemption for an additional period not to exceed three additional years. The board shall grant the request if the school district presents convincing evidence demonstrating to the satisfaction of the board that the extension is necessary.

(c) For purposes of this section, "portable building" means a classroom building of modular design and construction that meets all of the following criteria:

(1) It is designed and constructed to be relocatable and transportable over public streets.

(2) It is designed and constructed for relocation without detaching the roof or the floor from the building.

(3) It has a floor area of 2,000 square feet or less when measured at the most exterior walls.

17074.56. (a) The State Allocation Board shall adjust the per-pupil grant amount set forth in Section 17072.10 as necessary to accommodate 50 percent of the increased costs due to the automatic fire detection, alarm, and sprinkler system required pursuant to subdivision (a) of Section 17074.50. The board shall adjust the per-pupil grant amount set forth in Section 17074.10 as necessary to accommodate 80 percent of the increased costs due to the automatic fire detection and alarm system required pursuant to subdivision (b) of Section 17074.50. The board shall establish a method to provide up to 100 percent of the increased costs of the automatic fire detection, alarm, and sprinkler, if applicable, systems for school districts which qualify for hardship assistance pursuant to paragraph (1) of subdivision (b) of Section 17075.10.

(b) By July 1, 2003, the board shall review the adequacy of the per-pupil grant adjustments made pursuant to subdivision (a) and shall increase or decrease those adjustments as determined to be necessary.

(c) Any project submitted to the Division of the State Architect on or after September 1, 2001, that includes a qualifying fire detection, alarm, and sprinkler, if applicable, system, and that has not been fully funded prior to July 1, 2002, shall be eligible for grant or eligibility adjustments as set forth in this article.

Article 8. Hardship Application

17075.10. (a) A school district may apply for hardship assistance in cases of extraordinary circumstances. Extraordinary circumstances may include, but are not limited to, the need to repair, reconstruct, or replace the most vulnerable school facilities that are a Category 2 building, as defined in the report submitted pursuant to Section 17317, determined by the department to pose an unacceptable risk of injury to its occupants in the event of a seismic event.

(b) A school district applying for hardship state funding under this article shall comply with either paragraph (1) or (2).

(1) Demonstrate both of the following:

(A) That due to extreme financial, disaster-related, or other hardship the school district has unmet need for pupil housing.

(B) That the school district is not financially capable of providing the matching funds otherwise required for state participation, that the district has made all reasonable efforts to impose all levels of local debt capacity and development fees, and that the school district is, therefore, unable to participate in the program pursuant to this chapter except as set forth in this article.

(2) Demonstrate that due to unusual circumstances that are beyond the control of the district, excessive costs need to be incurred in the construction of school facilities. Funds for the purpose of seismic mitigation work or facility replacement pursuant to this section shall be allocated by the board on a 50 percent state share basis from any funds reserved for that purpose in any bond approved by the voters after January 1, 2006. If the board determines that the seismic mitigation work of a school building would require funding that is greater than 50 percent of the funds required to construct a new facility, the school district shall be eligible for funding to construct a new facility under this chapter.

(c) The board shall review the increased costs that may be uniquely associated with urban construction and shall adjust the per-pupil grant for new construction or modernization hardship applications as necessary to accommodate those costs. The board shall adopt regulations setting forth the standards, methodology, and a schedule of allowable adjustments, for the urban adjustment factor established pursuant to this subdivision.

17075.15. (a) From funds available from any bond act for the purpose of funding facilities for school districts with a financial hardship, the board may provide other construction, modernization, or relocation assistance as set forth in this chapter or Chapter 14 (commencing with Section 17085) to the extent that severe circumstances may require, and may adjust or defer the local financial participation, as pupil health and safety considerations require to the extent that bond act funds are provided for this purpose.

(b) The board shall adopt regulations for determining the amount of funding that may be provided to a district, and the eligibility and prioritization of funding, under this article.

(c) The regulations shall define the amount, and sources, of

financing that the school district could reasonably provide for school facilities as follows:

(1) Unencumbered funds available in all facility accounts in the school district including, but not limited to, fees on development, redevelopment funds, sale proceeds from surplus property, funds generated by certificates of participation for facility purposes, bond funds, federal grants, and other funds available for school facilities, as the board may determine.

(2) The board may exclude from consideration all funds encumbered for a specific capital outlay purpose, a reasonable amount for interim housing, and other funds that the board may find are not reasonably available for the project.

(d) Further, the regulations shall also specify a method for determining required levels of local effort to obtain matching funds.

The regulations shall include consideration of at least all of the following factors:

(1) Whether the school district has passed a bond measure within the two-year period immediately preceding the application for funding under this article, the proceeds of which are substantially available for use in the project to be funded under this chapter, but remains unable to provide the necessary matching share requirement.

(2) Whether the principal amount of the current outstanding bonded indebtedness issued for the purpose of constructing school facilities for the school district and secured by property within the school district or by revenues of, or available to, the school district, which shall include general obligation bonds, Mello-Roos bonds, school facility improvement district bonds, certificates of participation, and other debt instruments issued for the purpose of constructing school facilities for the school district and for which owners of property within the school district or the school district are paying debt service is at least 60 percent of the school district's total bonding capacity, as determined by the board.

(3) Whether the total bonding capacity, as defined in Section 15102 or 15106, as applicable, is five million dollars (\$5,000,000) or less, in which case, the school district shall be deemed eligible for financial hardship.

(4) Whether the application for funding under this article is from a county superintendent of schools.

(5) Whether the school district submits other evidence of substantial local effort acceptable to the board.

(6) The value of any unused local general obligation debt capacity, and developer fees added to the needs analysis to reflect the district's financial hardship, available for the purposes of school facilities financing.

Article 9. Program Accountability

17076.10. (a) A school district that has received any funds pursuant to this chapter shall submit a summary report of expenditure of state funds and of district matching funds annually until all state funds and district matching funds are expended, and shall then submit a final report to the board. The board may require an audit of these reports or other district records to ensure that all funds received pursuant to this chapter are expended in accordance with program requirements.

(b) If the board finds that a participating school district has made no substantial progress towards increasing its pupil capacity or modernizing its facilities within 18 months of the receipt of any funding pursuant to this chapter, the board shall rescind the apportionment in an amount equal to the unexpended funds.

(c) (1) If the board, after the review of expenditures or audit has been conducted pursuant to subdivision (a), determines that a school district failed to expend funds in accordance with this chapter, the department shall notify the school district of the amount that must be repaid to the 1998 State School Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State School Facilities Fund, as the case may be, within 60 days. If the school district fails to make the required payment within 60 days, the department shall notify the Controller and the school district in writing, and the Controller shall deduct an amount equal to the amount received by the school district under this subdivision, from the school district's next principal apportionment or apportionments of state funds to the school district, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution. Any amounts obtained by the Controller shall be deposited into the 1998 State School Facilities Fund, the 2002 State School Facilities Fund, or the 2004 State School Facilities Fund, as appropriate.

(2) Notwithstanding paragraph (1), if the board determines that repayment of the full liability within 60 days after the board action would constitute a severe financial hardship, as defined by the board, for the school district, the board shall approve a plan of equal annual payments over a period of up to five years. The plan shall include interest on each year's outstanding balance at the rate earned on the state's Pooled Money Investment Account during that year. The Controller shall withhold amounts, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution, pursuant to the plan.

(d) If a school district has received an apportionment, but has not met the criteria to have funds released pursuant to Section 17072.32 or 17074.15 within a period established by the board, but not to exceed 18 months, the board shall rescind the apportionment and deny the district's application.

17076.11. Any school district using funds allocated pursuant to this chapter for the construction or modernization of a school building, shall have a participation goal of at least 3 percent, per year, of the overall dollar amount expended each year by the school district, for disabled veteran business enterprises.

Article 10. School Project Safety Components

17077.10. (a) It is a goal of the Legislature to eventually enhance pupil safety by equipping all elementary and secondary school classrooms with a telephone hook connected to a public switched network.

(b) The Legislature finds and declares that as of 1999, there are approximately 205,000 classrooms in California's elementary and secondary schools and only a small, undetermined percentage of these classrooms have telephones. The Legislature finds and declares that in order to protect the safety of pupils, schools should be integrated into local emergency, information, and interagency health and safety, networks with up-to-date telecommunications systems. Connection to these systems would also facilitate community and parent interaction with teachers and schools, and thereby further enhance pupil safety.

(c) "School building" as used in this section means and includes any building used, or designed to be used, for elementary or secondary school purposes and constructed, reconstructed, altered, or added to, by the state or by any city or city and county, or by any political subdivision, or by any school district of any kind within the state, or by any regional occupational center or program, established by or authorized to act by any agreement under joint exercise of power, or by the United States government, or any agency thereof. This definition includes any fabrication, construction, or alteration of a relocatable school building.

(d) Commencing with applications submitted on or after January 1, 2000, any school district applying for funding pursuant to this chapter shall include in its plans and specifications for the construction or fabrication of a new or modernized school building, that includes the construction or fabrication of new or modernized classrooms, a hard-wired connection to a public switched telephone network in each new or modernized classroom. However, a school district may meet this requirement by utilizing wireless technology equal to a hard-wired connection to a public switched telephone network.

Article 10.5. Energy Efficiency

17077.30. (a) As part of the requirements for submission of an application to the State Allocation Board for funding pursuant to this chapter for any new construction or modernization project, the applicant school district may, at the time of submission of the final drawings to the Division of the State Architect, certify that an energy analysis and report has been prepared that sets forth the utility savings that would be generated if the facilities were designed, constructed, and equipped, with the energy efficiency and renewable technologies that would make the facilities exceed the minimum building energy-efficiency standards mandated for new public buildings pursuant to the latest edition of the California Building Standards Code through the use of energy efficiency and renewable energy technologies.

(b) The energy analysis and report shall include a verifiable life-cycle cost analysis for each proposed energy conservation measure and renewable energy that may include, but need not be limited to, photovoltaic parking lot and security lighting, and solar swimming pool and domestic water heating, showing a return on investment of less than 15 years.

(c) The cost of the energy analyses and reports shall not exceed:

(1) Seven thousand five hundred dollars (\$7,500) per project for elementary schools.

(2) Ten thousand dollars (\$10,000) per project for middle schools.

(3) Fifteen thousand dollars (\$15,000) per project for high schools.

(d) An applicant school district may count the following funds or expenditures toward meeting the local matching funds requirement under this chapter:

(1) The amount from any local sources actually expended on the project by the applicant school district for an energy audit.

(2) The amount actually applied to the project from any incentive, grant, or rebate, received by the applicant school district from a program funded pursuant to Section 381 of the Public Utilities Code.

17077.35. (a) An applicant school district may include plan design and other project components that seek school facility energy efficiency approaching the ultimate goal of school facility energy self-sufficiency, and may seek a grant adjustment for the state's share of the increased costs associated with those components.

(b) Energy efficiency components that are eligible for inclusion into a project pursuant to this section include, but are not limited to, conservation, load reduction technologies, peakload shifting, solar water heating technologies as described in subparagraph (A) of paragraph (2) of subdivision (b) of Section 25619 of the Public Resources Code and as rated and certified by the Solar Rating and Certification Corporation, the use of ground source temperatures for heating and cooling, photovoltaics, and technologies that meet the emerging technology eligibility criteria established by the State Energy Resources Conservation and Development Commission pursuant to Section 383.5 of the Public Utilities Code. A project that received

funding from the renewable energy program administered by the State Energy Resources Conservation and Development Commission is not eligible for a grant adjustment under this section.

(c) In order to be eligible for the grant adjustment pursuant to this section, the building proposed for the project, including the energy-efficiency and renewable energy measures utilized pursuant to this section, shall exceed the nonresidential building energy-efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations by an amount not less than 15 percent for new construction projects and not less than 10 percent for modernization projects, and shall be shown to provide sufficient energy savings to return the cost of the initial investment in the project over a period not to exceed seven years. The applicant shall certify that the cost for the project exceeds the amount of funding otherwise available to the applicant under this chapter.

(d) The board shall provide an applicant for a new construction or modernization project with a grant adjustment to provide an increase not to exceed 5 percent of its state grants authorized by Sections 17072.10 and 17074.10 for the state's share of costs associated with design and other plan components related to school facility energy efficiency as set forth in this article.

Article 10.6. Joint-Use Facilities

17077.40. (a) With funds made available for the purposes of this article, the board may provide a grant to fund joint-use projects to construct facilities on kindergarten to grade 12, inclusive, schoolsites.

(b) A school district may apply to the board for funding under this article for a project that meets any of the following criteria:

(1) The joint-use project is part of an application for new construction funding under this chapter, and will increase the size or extra cost associated with the joint use of the proposed multipurpose room, gymnasium, child care facility, library, or teacher education facility beyond that necessary for school use.

(2) The joint-use project proposes to either reconfigure existing school buildings or construct new school buildings, or both, to provide for a multipurpose room, a gymnasium, a library, a child care facility, or a teacher education facility and the project will be located at a school that does not have the type of facility for which funds are requested or the existing facility is inadequate.

(3) The joint-use project proposes to either reconfigure existing school buildings or construct new school buildings, or both, to provide for facilities to improve pupil academic achievement, and the plans for the facility were accepted for review and approval by the department prior to January 1, 2004.

17077.42. In order to be approved for a grant under this article, the applicant district shall demonstrate that it has complied with all of the following:

(a) The school district has entered into a joint-use agreement with a governmental agency, public community college, public college or public university, or a nonprofit organization approved by the board.

(b) The joint-use agreement specifies the method of sharing capital and operating costs, specifies relative responsibilities for the operation and staffing of the facility, and specifies the manner in which the safety of the pupils will be ensured.

(c) The joint-use agreement specifies the amount of the contribution to be made by the school district and the joint-use partner toward the 50 percent local share of eligible project costs. The contribution made by a joint-use partner shall be no less than 25 percent of eligible project costs, unless the school district has passed a local bond which specifies that such funds are to be used for the joint-use project, in which case the school district may opt to provide up to the full 50 percent local share of eligible costs.

(d) The school district demonstrates that the facility will be used to the maximum extent possible for both school and community purposes, or both school and higher education purposes, as applicable.

(e) (1) The project application qualifies for funding under paragraph (1) of subdivision (b) of Section 17077.40 and the school district has received all approvals necessary for apportionment under this chapter.

(2) The project qualifies for funding under paragraph (2) or (3)

of subdivision (b) of Section 17077.40 and the school district has completed preliminary plans for the project and has received State Department of Education approval of the plans.

17077.45. (a) The board shall establish standards for determining the amount of the supplemental grant funding to be made available for each project under this article.

(1) For a project application qualifying for funding under paragraph (1) of subdivision (b) of Section 17077.40, the supplemental grant shall be in the form of an adjustment to the per-pupil eligibility of the project. This per-pupil eligibility adjustment shall be calculated to cover costs associated with the project that are uniquely related to the joint-use nature of the project, including, but not limited to, any increased costs associated with planning the joint-use aspect of the project.

(2) For a project application qualifying under paragraph (2) or (3) of subdivision (b) of Section 17077.40, the supplemental grant may be provided without regard to the existence of per-pupil eligibility pursuant to this chapter, and may be expressed on a per-square-foot cost basis, on a per-pupil cost basis, or on a per-project cost basis.

(b) Notwithstanding any other provision of this chapter, project costs may exceed the board's standards established pursuant to subdivision (a) only if the excess is paid completely by local or joint-use partner sources.

(c) On July 1 of each year the board shall apportion to qualifying applicant school districts those funds that it determines are available for the purpose of this article. The board shall not release funds to a qualifying applicant until the project plans have received all approval required pursuant to this chapter, including, but not limited to, the approval of the Division of the State Architect. If the project does not receive all necessary plan approvals within one year of the date of the apportionment, the board shall rescind the apportionment.

(d) If the total funding for the purposes of this article is not sufficient to fund all of the joint-use projects for funding under this article, the board shall first fund projects eligible under paragraphs (1), (2), and (3) of subdivision (b) of Section 17077.40 in that order. The board may establish other priority standards within that order, as necessary.

(e) Except as expressly provided in this article, projects funded pursuant to this article shall comply with all other requirements of this chapter, except for Article 11 (commencing with Section 17078.10), which shall apply only to projects under this article if they also qualify for funding under Article 11 (commencing with Section 17078.10).

Article 11. Critically Overcrowded School Facilities

17078.10. (a) There is hereby established the Critically Overcrowded School Facilities Program to be administered by the board.

(b) For the purposes of this article, "preliminary application" means an application for a preliminary apportionment pursuant to this article.

(c) For the purposes of this article, "preliminary apportionment" means an apportionment made for eligible applicants with critically overcrowded schools in advance of full compliance with all of the application requirements otherwise required for an apportionment pursuant to this chapter.

(d) For the purposes of this article, "final apportionment" has the same meaning as "apportionment" as set forth in subdivision (a) of Section 17070.15.

(e) There is hereby established the 2002 Critically Overcrowded School Facilities Account within the 2002 State School Facilities Fund, and the 2004 Critically Overcrowded School Facilities Account within the 2004 State School Facilities Fund, for the purposes of this article. Funds reserved for the purposes of this article shall be placed in those accounts, as appropriate, and shall be available exclusively for projects eligible under this article until the funds are made available for other purposes of this chapter pursuant to Section 17078.30.

17078.15. (a) Unless this article expressly provides otherwise, the provisions contained in the other articles of this chapter shall apply with equal force to a project funded under this article. This article shall control over the provisions of this chapter contained in other articles only to the extent that this article expressly conflicts with those provisions.

(b) This article shall apply only to a project that is otherwise eligible under this chapter and that meets both of the following criteria:

(1) The project meets the criteria set forth in Section 17078.18.

(2) The project is to be funded from the proceeds of state bonds approved by the voters at the November 5, 2002, statewide general election, or the 2004 direct primary election or the 2004 statewide general election, as the case may be, that were expressly reserved in the bond act or acts for the purposes set forth in this article.

(c) The state share of project costs and the state per-unhoused-pupil new construction apportionments for programs eligible under this article shall be equal to the share and amounts otherwise provided by the board pursuant to this chapter, including, but not limited to, any applicable adjustments or supplements otherwise authorized pursuant to this chapter.

(d) A school district that elects to utilize per-unhoused-pupil eligibility pursuant to this chapter to support a project pursuant to this article, shall not simultaneously utilize that same eligibility to support any other application pursuant to this chapter.

17078.18. Projects funded under this article shall meet all of the following criteria:

(a) The project is a new construction project to build new pupil capacity to relieve overcrowding.

(b) The proposed school facility shall be located in the proposed general location, as set forth in Section 17078.22, of the school or schools that have the conditions and pupils that establish the eligibility pursuant to this article as set forth in subdivision (c).

(c) At least 75 percent of the projected pupil occupancy of the project facilities shall come from a source school or source schools that have a site pupil population density greater than 115 pupils per acre in grades kindergarten to six, inclusive, or a site pupil population density greater than 90 pupils per acre in grades seven to 12, inclusive, as determined by the Superintendent of Public Instruction using enrollment data from the California Basic Educational Data System for the 2001-02 school year. For source schools with grades that include a combination of kindergarten to six, inclusive, and seven to 12, inclusive, the controlling source schoolsite pupil population density shall be the one applicable to the grade levels in which the majority of the pupils are enrolled at the source school.

17078.20. (a) The board shall disseminate information to school districts regarding the availability of funding pursuant to this article and the appropriate deadlines for applications.

(b) Applicants for funding pursuant to this article shall submit preliminary applications to the board.

(c) The preliminary applications shall be submitted by May 1, 2003, for projects to be funded with the proceeds of bonds approved by the voters at the November 5, 2002, statewide general election.

(d) Preliminary applications shall be accepted by the board during the period between 60 days before and 120 days after, the 2004 direct primary election, or the 2004 statewide general election, as appropriate for projects to be funded with the proceeds of bonds approved by the voters at the 2004 direct primary election, or the 2004 statewide general election, as appropriate.

(e) If funds are insufficient to fully fund all of the preliminary applicants, the board shall apportion first to those projects that would house pupils from source schools with the highest pupil density levels relative to the State Department of Education standards.

17078.22. (a) The preliminary applications shall do all of the following:

(1) Establish per-unhoused-pupil eligibility as set forth in Article 3 (commencing with Section 17071.75).

(2) Identify the unhoused pupil population that the proposed project will serve by determining the number of pupils to be served and the likely source school or schools from which the pupils population will be drawn.

(3) Identify the proposed general location of the needed new facilities pursuant to any of the following:

(A) Within that portion of the attendance area from which one or more elementary schools that would be a source of the per-pupil eligibility for the proposed facility draws its enrollment, or within a one-mile radius of a source school, or within a one-mile radius of any one of the source schools if there are more than one, whichever is greater.

(B) Within the attendance area of a high school, middle school, or junior high school that would be a source of the per-pupil eligibility for the proposed facility or within a three-mile radius of a source school, or within a three-mile radius of any one of the source schools if there are more than one, whichever is greater.

(4) Estimate the total facility cost on a per-pupil basis and estimate the total site acquisition and development costs pursuant to the regulations adopted pursuant to subdivision (c) of Section 17078.24.

(b) The State Department of Education may grant a variance from the distance maximums set forth in paragraph (3) of subdivision (a) if the school district demonstrates to the satisfaction of the department that the variance is necessary in order to adequately provide facilities for the identified source school pupils.

17078.24. (a) On the basis of the preliminary application and upon confirmation by the board of the applicant's eligibility, the board shall in a timely manner make a preliminary apportionment for applicants under this article exclusively from funds reserved expressly for the purposes of this article.

(b) Preliminary apportionments for site development and acquisition included in the preliminary application pursuant to subdivision (a) of Section 17078.22 shall be based either on the preliminary appraisal, if available, or on the median costs of appropriately sized parcels within the qualifying area, as determined by the board.

(c) Preliminary apportionments shall include the total estimated state costs of the project, including, but not limited to, site acquisition and development costs related to evaluations and elimination of hazardous materials, an inflation factor, any applicable excess cost allowances, and hardship costs, if any. The board shall adopt regulations establishing standards and methods for setting these costs and for making related estimates.

17078.25. (a) Within the maximum time period set forth in Section 17078.30, the applicant shall have a period of up to four years from the date of the preliminary apportionment in which to complete the application for final apportionment.

(b) The applicant may request a single one-year extension of the period set forth in subdivision (a). The board shall grant the request for the single one-year extension if it determines that the applicant has made substantial progress towards completing the requirements for filing an application for final apportionment. The board may grant only one one-year extension for the project and may only grant the extension if granting the extension would not, in total, cause the project to exceed the maximum time period set forth in Section 17078.30.

(c) The board shall adopt regulations setting forth standards for determining the existence of substantial progress within the meaning of subdivision (b).

(d) The governing board of a school district shall report annually to the State Allocation Board regarding the progress made toward completing the requirements for filing an application for final apportionment, and shall annually hold, at a regularly scheduled meeting of the governing board, a public hearing pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code) to discuss, and to receive public comment regarding, the report.

(e) In its first annual report the governing board of the school district shall certify that the State Department of Education has determined in writing that there is at least one approvable site within the proposed general location of the proposed facility identified pursuant to paragraph (3) of subdivision (a) of Section 17078.22, or within the variance location authorized pursuant to subdivision (b) of Section 17078.22.

(f) If the applicant for the one-year extension pursuant to subdivision (b) has not made substantial progress to complete the application process within the allotted time period, the preliminary apportionment shall be rescinded and shall be utilized by the board for funding of other projects that have received a preliminary apportionment pursuant to this article, or at the expiration of the maximum time allowed pursuant to Section 17078.30, the board shall use the funds for any other new construction purpose of this chapter.

17078.27. (a) Upon completion of the preliminary process authorized pursuant to this article, and when a preliminary applicant has complied with the conditions set forth in this chapter for a final apportionment, including, but not limited to, Section 17070.50, the board shall adjust the preliminary apportionment as set forth in subdivision (b) and as necessary to reflect the current eligible grant amounts for final apportionments pursuant to this chapter consistent with regulations adopted pursuant to subdivision (c) of Section 17078.24. The board shall then convert the adjusted preliminary apportionment to a final apportionment and proceed to completion of the project in the same manner as for any project funded under provisions of this chapter other than this article.

(b) The board may adjust for cost increases only if uncommitted funds reserved expressly for the purposes of this article remain available for those purposes.

(c) For purposes of calculating enrollment to determine eligibility for a final apportionment for a project funded from the Kindergarten-University Public Education Facilities Bond Act of 2002, as set forth in Part 68.1 (commencing with Section 100600), and the Kindergarten-University Public Education Facilities Bond Act of 2004, as set forth in Part 68.2 (commencing with Section 100800), an applicant may use one of the following methods as an alternative to the method provided in subdivision (a) of Section 17071.75:

(1) The current year enrollment as recorded on the cohort survival enrollment projection system described in subdivision (a) of Section 17071.75, for the year in which the application for the final apportionment is submitted.

(2) (A) If eligibility for the preliminary apportionment was

calculated pursuant to Section 17071.76, the current year or five-year projected enrollment as recorded on a cohort survival enrollment projection system, developed and approved by the board, that uses pupil residence in the high school attendance area, for the year in which the application for the final apportionment is submitted.

(B) A school district that uses the method described in this paragraph to calculate enrollment shall also use this method to calculate enrollment for all applications it submits for final apportionments for projects for which preliminary apportionments were approved from the same bond authorization.

17078.30. (a) (1) A portion of the funds reserved for the purposes set forth in this article from the proceeds of state bonds approved by the voters at the November 5, 2002, statewide general election that are not included in a preliminary apportionment for an application that is received by the deadline specified in subdivision (c) of Section 17078.20 shall thereafter be available to the board for apportionment for any new construction purpose under any other article of this chapter.

(2) The amount of funds that shall be made available to the board for purposes other than this article, pursuant to this subdivision, shall be calculated as follows:

(A) Add the total amount preliminarily apportioned to 15 percent of that amount.

(B) Take the number calculated pursuant to subparagraph (A) and subtract that number from the amount originally reserved for the purposes of this article.

(C) The number calculated pursuant to subparagraph (B) shall thereafter be available to the board for any new construction purpose under any other article of this chapter.

(3) All funds reserved for the purposes set forth in this article from the proceeds of state bonds approved by the voters at the November 5, 2002, statewide general election pursuant to a preliminary apportionment that are not included within a final apportionment within the timeframes permitted by Section 17078.25 shall thereafter be available to the board for apportionment for any new construction purpose under any other article of this chapter.

(b) (1) A portion of the funds reserved for the purposes set forth in this article from the proceeds of state bonds approved by the voters at the 2004 direct primary election, or the 2004 statewide general election, as appropriate, that are not included in a preliminary apportionment for an application that is received by the deadline specified in subdivision (d) of Section 17078.20 shall thereafter be available to the board for apportionment for any new construction purpose under any other article of this chapter.

(2) The amount of funds that shall be made available to the board for purposes other than this article, pursuant to this subdivision, shall be calculated as follows:

(A) Add the total amount preliminarily apportioned to 15 percent of that amount.

(B) Take the number calculated pursuant to subparagraph (A) and subtract that number from the amount originally reserved for the purposes of this article.

(C) The number calculated pursuant to subparagraph (B) shall

thereafter be available to the board for any new construction purpose under any other article of this chapter.

(3) All funds reserved for the purposes set forth in this article from the proceeds of state bonds approved by the voters at the 2004 direct primary election, or the 2004 statewide general election, as appropriate, pursuant to a preliminary apportionment that are not included within a final apportionment within the timeframes permitted by Section 17078.25 shall thereafter be available to the board for apportionment for any new construction purpose under any other article of this chapter.

Article 12. Charter Schools

17078.52. (a) There is hereby established the Charter Schools Facilities Program to provide funding to qualifying entities for the purpose of establishing school facilities for charter school pupils.

(b) (1) The 2002 Charter School Facilities Account is hereby established within the 2002 State School Facilities Fund established pursuant to subdivision (b) of Section 17070.40. The proceeds of bonds, as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100620, shall be deposited into the 2002 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(2) The 2004 Charter School Facilities Account is hereby established within the 2004 State School Facilities Fund established pursuant to subdivision (c) of Section 17070.40. The proceeds of bonds, as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100820, if approved by the voters, shall be deposited into the 2004 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(3) The 2006 Charter School Facilities Account is hereby established within the 2006 State School Facilities Fund established pursuant to subdivision (d) of Section 17070.40. The proceeds of bonds, as set forth in paragraph (2) of subdivision (a) of Section 101012, if approved by the voters, shall be deposited into the 2006 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(c) As used in this article, the following terms have the following meanings:

(1) "Authority" means the California School Finance Authority established pursuant to Section 17172.

(2) "Account" means the pertinent account established under subdivision (b).

(3) "Preliminary apportionment" means an apportionment made for eligible applicants under this article in advance of full compliance with all of the application requirements otherwise required for an apportionment pursuant to this chapter. The process for making preliminary apportionments under this article shall be substantially identical to the process established for critically overcrowded schools pursuant to Sections 17078.22 to 17078.30, inclusive.

(4) "Financially sound" means a charter school that has demonstrated, over a period of time determined by the authority, but not less than 24 months immediately preceding the submission of the application, that it has operated as a financially capable concern in California, as measured by criteria established by the authority. A charter school that cannot demonstrate that it has been a financially capable concern for at least 24 months immediately preceding the submission of the application, due solely to not having operated as a charter school for at least 24 months, may meet this 24-month requirement if the charter school is managed by staff who have at

least 24 months of documented experience, as measured by criteria established by the authority and the charter school has an educational plan, financial resources, facilities expertise, management expertise, and has been a financially capable concern for at least 24 months, as established by the authority.

(d) The board shall, from time to time, transfer funds within the account to the California School Finance Authority Fund for the purposes of this article pursuant to the request of the authority as set forth in this article.

17078.53. (a) The initial preliminary applications for projects to be funded pursuant to this article shall be submitted to the board by March 31, 2003. Thereafter, the board may establish subsequent application periods as needed.

(b) Preliminary applications may be submitted by eligible applicants as set forth in this article by either of the following:

(1) A school district on behalf of a charter school that is physically located within the geographical jurisdiction of the school district.

(2) A charter school on its own behalf if the charter school has notified both the superintendent and the governing board of the school district in which it is physically located of its intent to do so in writing at least 30 days prior to submission of the preliminary application.

(c) A preliminary application shall demonstrate either of the following:

(1) That a charter petition for the school for which the application is submitted has been granted by the appropriate chartering entity prior to the application deadline determined by the board.

(2) That an already existing charter has been amended to include the school for which the application is submitted and approved by the appropriate chartering entity prior to the deadline determined by the board.

(d) A preliminary application shall include either of the following:

(1) For a preliminary application submitted pursuant to paragraph (1) of subdivision (b), the number of unhoused pupils determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

(2) For a preliminary application submitted pursuant to paragraph (2) of subdivision (b), a certification from the governing board of the district within which the charter school is physically located of the number of unhoused pupils for that district determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

(e) Prior to submitting a preliminary application, the school district and charter school shall consider existing school district facilities in accordance with Section 47614.

(f) The board, after consideration of the recommendations of the authority regarding whether a charter school is financially sound, shall approve the preliminary application and shall make the preliminary apportionment for funding pursuant to this article.

(g) (1) The board shall establish a process to ensure that pupil

attendance in a charter school that is physically located within the geographical jurisdiction of a school district is counted as per-pupil eligibility for that school district and to ensure that the same per-pupil attendance is not so counted for any other school district or other applicant under this chapter.

(2) (A) Except as provided pursuant to subparagraph (B) and notwithstanding subdivision (b) of Section 17071.75, the number of pupils for which facilities are provided under this article shall not be included in the sum determined under subdivision (b) of Section 17071.75.

(B) The number of unhoused pupils determined pursuant to subdivision (d) that will be housed by the project for which a preliminary application has been submitted shall be included in the sum determined under subdivision (b) of Section 17071.75.

(h) The board shall establish a process to be used for release of funds for approved projects pursuant to this article. Notwithstanding Section 17072.30, the board may provide for the release of planning and site acquisition funds prior to the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281.

17078.54. (a) An eligible project under this article shall include funding, as permitted by this chapter, for new construction or rehabilitation of a school facility for charter school pupils, as set forth in this article. A project may include, but is not limited to, the cost of retrofitting an existing building for charter school purposes, purchasing a building, or retrofitting a building that has been purchased by the charter school, if those costs have not been previously funded under this chapter, but may not exceed the amounts set forth in subdivision (b). Existing school buildings made available by a school district that will be rehabilitated for the purposes of this article are not subject to Article 6 (commencing with Section 17073.10). An allocation of funds shall not be made for a school facility that is less than 15 years old.

(b) The maximum amount of the funding pursuant to this article shall be determined by calculating the charter school's per-pupil grant amount plus other allowable costs as set forth in this chapter. Funding shall be provided by the authority for new facility construction or rehabilitation as set forth in Section 17078.58.

(c) To be funded under this article, a project shall comply with all of the following:

(1) It shall meet all the requirements regarding public school construction, plan approvals, toxic substance review, site selection, and site approval, as would any noncharter school project of a school district under this chapter, including, but not limited to, regulations adopted by the State Architect pursuant to Section 17280.5 relating to the retrofitting of existing buildings, as applicable.

(2) Notwithstanding any provision of law to the contrary, including, but not limited to paragraph (1), the board, after consulting with the relevant regulatory agencies, shall, to the extent feasible, adopt regulations establishing a process for projects to be subject to a streamlined method for obtaining regulatory approvals for all requirements described in paragraph (1), except for the requirements of the Field Act as defined in Section

17281 which shall be complied with in the same manner as any other project under this chapter.

(3) The board shall fund only new construction to be physically located within the geographical jurisdiction of a school district.

(d) Facilities funded pursuant to this article shall have a 50 percent local share matching obligation that may be paid by the applicant through lease payments in lieu of the matching share, or as otherwise set forth in this article, including, but not limited to, Section 17078.58.

(e) The authority may charge its administrative costs against the respective 2002, 2004, or 2006 Charter School Facilities Account, which shall be subject to the approval of the Department of Finance and which may not exceed 2.5 percent of the account.

17078.56. (a) The board, in consultation with the authority, shall approve projects pursuant to this article as otherwise set forth in this chapter, and shall make preliminary apportionments only to financially sound applicants in accordance with all of the following criteria:

(1) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of the various geographical regions of the state.

(2) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of urban, rural, and suburban regions of the state.

(3) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of large, medium, and small charter schools throughout the state.

(4) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of the various grade levels of pupils served by charter school applicants throughout the state.

(b) While ensuring that the requirements of subdivision (a) are met when considering all approved projects under this article as a whole, the board shall, within each factor of the criteria set forth in subdivision (a), give a preference to charter schools in overcrowded school districts, charter schools in low-income areas, charter schools operated by not-for-profit entities, and charter schools that utilize existing school district facilities.

17078.57. (a) The authority, in consultation with the board, shall adopt regulations establishing uniform terms and conditions that shall apply equally to all projects for funding in accordance with Section 17078.58, including, but not limited to, all of the following:

(1) The process for determining the manner in which the applicant will pay its local matching share, including the method for determining any lease payments to be made in lieu of the local matching share. The regulations shall comply with all of the following criteria:

(A) The payment process set forth in Section 17199.4 may be used.

(B) The payment process shall permit lump-sum local matching payments and shall permit establishment of a schedule for lease payments to be made in lieu of the local matching share.

(C) The lease payment schedule shall be calculated by amortizing one-half of the total approved project costs, minus any lump-sum payments, over the entire payment period as set forth in Section 17078.58.

(D) The payment schedule for lease payments in lieu of the local matching funds pursuant to this section shall be based upon payment, within a reasonable period of time not to exceed a 30-year period, of one-half of the total eligible project costs, and shall be calculated in a manner that is designed to result in full payment of that portion, together with interest thereon at the rate paid on moneys in the Pooled Money Investment Account as of the date of disbursement of the funding.

(2) The method for determining whether a charter school is financially sound. In the case of a charter school chartered by a school district that is located outside of the school district that chartered it, the method developed by the authority shall include, but shall not be limited to, a site visit to the school facility currently being used by the charter school during hours when pupils are present and instruction is being provided.

(3) (A) Security provisions, including, but not limited to, the requirement that title to project facilities be held by the school district in which the facility is to be physically located, in trust, for the benefit of the state public school system.

(B) The authority shall adopt a mechanism whereby a person or entity who provides a substantial contribution that is applied to the costs of the project in excess of the state share and the local matching share may be granted a security interest to be satisfied from the proceeds, if any, realized when the property is ultimately disposed of as set forth in paragraph (5) of subdivision (b) of Section 17078.62.

(4) The method for integrating funding pursuant to this article with the authority's general procedures pursuant to subdivision (i) of Section 17180 for otherwise funding projects eligible for funding under this chapter, if appropriate.

(b) The authority may adopt, amend, or repeal rules and regulations pursuant to this chapter as emergency regulations. The adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.

17078.58. (a) Funding granted pursuant to this article may not exceed 100 percent of the total allowable project costs as determined by calculating double the per-pupil grant eligibility as set forth in Section 17072.10, and subdivision (e) of Section 17078.53, plus 100 percent of all other allowable construction project costs, as appropriate to the project, that would otherwise be available to school district projects as set forth in this chapter. Funding granted for the purposes of rehabilitating buildings under Section 17078.54 shall be limited to the costs necessary to comply with subdivision (c) of Section 17078.54, and shall not exceed the maximum

costs that would otherwise be allowable for a new construction project funded under this article.

(b) The local share equivalent shall be collected in the form of lease payments or otherwise as set forth in this article.

(c) Lease payments in lieu of local share payments, and any other local share payments made pursuant to this article, shall be made to the board for deposit into the respective 2002, 2004, or 2006 Charter School Facilities Account. Funds deposited into the account pursuant to this section may be used by the board only for a purpose related to charter school facilities pursuant to this article.

(d) When a preliminary apportionment under this article is converted to a final apportionment, any funds not needed for the final apportionment shall remain in the 2002, 2004, or 2006 Charter School Facilities Account for use by the board for any purpose related to charter school facilities pursuant to this article.

17078.62. (a) As a first priority, the existing charter school shall be permitted to continue to use the facility until it is no longer needed by the charter school for charter school purposes.

(b) If the charter school occupying a facility funded pursuant to this article ceases to utilize the facility for a charter school purpose, all of the following apply:

(1) If the charter school is no longer using the facility because the school district in which the charter school is located has revoked or declined to renew the charter, the school district, as a necessary component of the first priority established in subdivision (a), may not immediately occupy the facility, but shall allow a reasonable time, not to exceed six months, for completion of the review process contemplated in Section 47607 or 47607.5.

(2) As a second priority, any qualifying successor charter school shall be permitted to meet its facility needs by occupying the facility on equal terms as the prior charter school occupant.

(3) As a third priority, the school district in which the charter school is physically located may notify the authority and take possession of the facility and make the facility available for continued use as a public school facility.

(4) If the school district in which the charter school is physically located elects to take possession of a facility pursuant to paragraph (3), it shall pay the balance of the unpaid local matching share or demonstrate that it is willing and able to continue to make the lease payments in lieu of the local matching share on the same terms. However, the payments shall be reduced or eliminated, as appropriate, if the school district complies with all of the following:

(A) It demonstrates that it would have been eligible for hardship funding under Article 8 (commencing with Section 17075.10) at the time that the application for funding the facility under this article was originally submitted.

(B) It certifies to the board that it will utilize the facilities for public school purposes for a period of at least five years from the date that it occupies the facility.

(5) If the school district declines to take possession pursuant to paragraph (3), or if the facility is subsequently no longer needed for public school purposes, the school district shall dispose of the

facilities in a manner otherwise applicable to the disposal of surplus public schoolsites. Any unpaid local matching share shall be paid from the net proceeds, if any, of the disposition and shall be deposited into the respective 2002 or 2004 Charter School Facilities Account. To the extent that funds remain from the proceeds of the disposition after repayment of the local matching share, any security interest granted to a person or entity pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 17078.57 shall be satisfied.

(6) If the lease payments in lieu of the local matching share are fully paid, the school district shall continue to hold title to the facility, in trust, for the benefit of the state public school system. The school district shall permit continued use of the facility for charter school purposes as long as the facility is needed for those purposes.

17078.64. (a) In lieu of applying for funding under this article, a school district may elect to include facilities for a charter school that would be physically located within its geographical jurisdiction within its application for funding pursuant to the general provisions of this chapter, other than this article. However, the project would be outside the scope of this article, would not be subject to its provisions, and shall comply with this chapter in the same manner as any noncharter project. Any per-pupil eligibility that is used for that project shall not, also, support any project under this article.

(b) Except for those provisions in which the authority is expressly required or authorized to adopt regulations pursuant to this article, the board in consultation with the authority shall adopt regulations to implement this article. The board may adopt, amend, or repeal rules and regulations pursuant to this article as emergency regulations. Until July 1, 2004, the adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.

(c) This article is not applicable to projects funded with the proceeds of state general obligation bonds approved by the voters prior to January 1, 2002.

17078.66. The State Allocation Board and the California School Finance Authority shall jointly report to the Legislature by July 1, 2005, regarding all of the following:

(a) The implementation of this article, including, but not limited to, a description of the projects funded pursuant to this article from the Kindergarten-University Public Education Facilities Bond Act of 2004.

(b) A description of the process whereby the board provides funding for charter school facilities under provisions of this chapter other than this article.

(c) Recommendations, if any, regarding statutory changes needed to facilitate and streamline the process described in subdivision (b).

Article 13. Career Technical Education Facilities Program

17078.70. (a) For the purposes of this article, "reconfiguration" means any modification of a structure of any age that will enhance the educational opportunities for pupils in existing middle and high schools in order to provide them with the skills and knowledge necessary for high-demand technical careers.

(b) "Reconfiguration" may include limited new construction necessary to accommodate the reconfiguration.

17078.72. (a) The Career Technical Education Facilities Program is hereby established to provide funding to qualifying local educational agencies for the purpose of constructing new facilities or reconfiguring existing facilities, including, but not limited to, purchasing equipment with an average useful life expectancy of at least 10 years, to enhance educational opportunities for pupils in existing high schools in order to provide them with the skills and knowledge necessary for the high-demand technical careers of today and tomorrow.

(b) The State Department of Education, in cooperation with the Chancellor's Office of the Community Colleges, the Labor and Workforce Development Agency, and industry groups, shall develop criteria and pupil outcome measures to evaluate the program. The criteria shall ensure equity, program relevance to industry needs, and articulation with more advanced coursework at the partnering community colleges or private institutions.

(c) The program shall be based on grant applications administered by the board.

(d) Grants shall be allocated on a per-square-foot basis for the applicable type of construction proposed or deemed necessary by the board consistent with the approved application for the project.

(e) New construction grants shall not exceed three million dollars (\$3,000,000) per project per schoolsite, inclusive of equipment, and shall only be allocated to comprehensive high schools that have an active Career Technical Advisory Committee pursuant to Section 8070, in either of the following methods:

(1) For a stand-alone project on a per-square-foot basis for the applicable type of construction proposed, based on the criteria established pursuant to subdivision (b), consistent with the approved application for the project.

(2) For new school projects, as a supplement to the per pupil allocation pursuant to Section 17072.10. The supplement is intended to cover excess costs uniquely related to the facilities required to provide the career technical education program or programs.

(f) Modernization grants shall not exceed one million five hundred thousand dollars (\$1,500,000) per project per schoolsite, inclusive of equipment and may be awarded to comprehensive high schools or joint power authorities currently operating career technical education programs that have an active Career Technical Advisory Committee pursuant to Section 8070 for the purpose of reconfiguration. For comprehensive high schools, the grant shall be supplemental to the per pupil allocation pursuant to Section 17074.10. The supplement is intended to cover excess costs uniquely related to the facilities required to provide the career technical

education program or programs.

(g) (1) A school district shall contribute from local resources a dollar amount that is equal to the amount of the grant of state funds awarded under subdivisions (d), (e), and (f). The local contribution may be provided by private industry groups, the school district, or a joint powers authority.

(2) A school district shall not be required to demonstrate that it has unhoused pupils or that a permanent school building is more than 25 years old in order to receive a grant under the program.

(h) The program shall allow the local contribution to be paid over time should sufficient local funds not be immediately available. The board may provide for a repayment schedule consistent with subparagraphs (C) and (D) of paragraph (1) of subdivision (a) of Section 17078.57. The board shall not waive the local contribution on the basis of financial hardship or on any other basis.

(i) Applications shall meet the criteria developed under subdivision (b) and shall require all of the following:

(1) A clear and comprehensive Career Technical Education plan for each course of study applicable to the instructional space.

(2) Projections of pupil enrollment.

(3) Identification of feeder schools, industry partners, and community colleges or other postsecondary schools participating in the development, articulation, and review of the educational program.

(4) Evidence of approval of the plan by the entities listed in paragraph (3).

(5) The method by which accountability for pupil enrollments and outcomes will be maintained. Outcomes shall include, but are not limited to, certificate completion, the successful entry of pupil to employment in the applicable industry, and successful transition to post-secondary institutions for work in the applicable industry or other areas of study.

(6) Evidence of coordination with all feeder schools, middle schools, and high schools within the area to ensure that the project and programs complement career technical education offerings in the area.

(7) Evidence that upon completion of the project the local educational agency will meet all of its obligations under Section 51228 relating to career technical education.

(j) Applications shall give weight to the number of pupils expected to attend, the cost per pupil, financial participation by industry partners in the construction and equipping of the facility, commitment to accountability for outcomes and participation, the strength and relevance of the educational plans to the needs of industry for qualified technical employees applicable to the economic development needs of the region in which the project will be located, and coordination and articulation with feeder schools, other high schools, and community colleges.

(k) The Office of Public School Construction shall develop and the board shall approve regulations to implement this article on or before April 19, 2007, and the board may promulgate those regulations first on an emergency basis, which shall be effective for no more than 12 months, after which any permanent regulations shall be promulgated in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

Article 14. Overcrowding Relief Grants

17079. (a) For purposes of this article, an eligible school is a school for which the schoolsite pupil population density is equal to or greater than 175 percent of the schoolsite pupil population density recommended by the Superintendent as of January 1, 2006, adjusted by the following factors:

(1) The density calculation shall be reduced to take into account the additional pupil capacity created by multistory construction.

(2) The schoolsite pupil population density shall be reduced to take into account approved new construction projects, including projects approved pursuant to Article 11 (commencing with Section 17078.10).

(b) The board shall adopt regulations to determine the adjustments set forth in paragraphs (1) and (2) of subdivision (a).

17079.10. (a) For purposes of this article, an eligible pupil is a pupil who is housed in a portable classroom, except portable classrooms used for purposes of the Class Size Reduction Program set forth in Chapter 6.10 (commencing with Section 52120) of Part 28, at an eligible school.

(b) The board shall apportion an overcrowding relief grant to districts on behalf of each eligible pupil equal to the appropriate per-unhoused-pupil grant amount pursuant to Section 17072.10. The number of overcrowding relief grants apportioned shall be subject to the following limitations:

(1) The number of grants apportioned on behalf of an eligible school shall not exceed the number of pupils whose removal from the pupil density calculation would reduce the density of the eligible schoolsite to 150 percent of the schoolsite pupil population density recommended by the Superintendent as of January 1, 2006.

(2) A district shall not receive more grants than the number of pupils housed in portable classrooms that were included in the initial new construction eligibility determination of the district pursuant to Article 3 (commencing with Section 17071.75).

17079.20. (a) The board shall require that applications for funding pursuant to this article be used for an equivalent number of permanent new school construction classrooms to replace the portable classrooms upon which the determination of the number of eligible pupils is based. The board shall also require the application to describe how the project will relieve overcrowding at the eligible school.

(b) The board shall create a list of projects eligible for funding and shall approve applications semiannually on a schedule determined by the board.

(c) The board shall require that applicant school districts comply with all of the same conditions otherwise required for new construction funding pursuant to this chapter with the exception of subdivision (b) of Section 17071.75.

(d) The board shall not apportion funds for a project pursuant to this article any portion of which involves the construction,

acquisition, or transportation of portable classrooms for any school in the school district.

(e) In the event the funding available to the board for purposes of this article is less than the amount necessary to fund all eligible applications, the board shall prioritize and fund the projects on the basis of the pupil density of the eligible schools.

17079.30. (a) The board shall require both of the following as conditions for receiving funding pursuant to this article:

(1) Within six months after the date of initial occupancy of the permanent school facilities constructed pursuant to this article, the school district shall remove from the eligible school, and remove from service as classrooms in the district, the portable classrooms used for determining the number of eligible pupils.

(2) The new school construction funding provided pursuant to this article shall result in a reduction in the total number of portable classrooms in the school district.

(b) This section does not preclude the school district from using the portable classrooms removed from eligible schools for child care or preschool programs, if those portable classrooms are not located at an eligible school.

(c) This section does not apply to eligible schools operating on double session schedules in an elementary school district in a county of the second class, as set forth in Section 28023 of the Government Code.